

# EXHIBIT 5

1 STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY  
2 BRANCH 1

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3 STATE OF WISCONSIN,

4 PLAINTIFF,

JURY TRIAL

TRIAL - DAY 1

5 vs.

Case No. 05 CF 381

6 STEVEN A. AVERY,

7 DEFENDANT.

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8 **DATE:** FEBRUARY 12, 2007

9 **BEFORE:** Hon. Patrick L. Willis  
10 Circuit Court Judge

11 **APPEARANCES:** KENNETH R. KRATZ  
Special Prosecutor  
12 On behalf of the State of Wisconsin.

13 THOMAS J. FALLON  
Special Prosecutor  
14 On behalf of the State of Wisconsin.

15 NORMAN A. GAHN  
Special Prosecutor  
16 On behalf of the State of Wisconsin.

17 DEAN A. STRANG  
Attorney at Law  
18 On behalf of the Defendant.

19 JEROME F. BUTING  
Attorney at Law  
20 On behalf of the Defendant.

21 STEVEN A. AVERY  
Defendant  
22 Appeared in person.

23 **TRANSCRIPT OF PROCEEDINGS**

24 Reported by Diane Tesheneck, RPR

25 Official Court Reporter

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1 THE COURT: At this time the Court calls  
2 State of Wisconsin vs. Steven Avery, Case No. 05 CF  
3 381. Will the parties state their appearances for  
4 the record, please.

5 ATTORNEY KRATZ: Good morning, Judge. The  
6 State of Wisconsin appears by Calumet County  
7 District Attorney Ken Kratz, lead counsel and  
8 appearing as special prosecutor in this case.  
9 Appearing with me include Tom Fallon, an Assistant  
10 Attorney General from the Department of Justice and  
11 Norm Gahn, an Assistant District Attorney, from  
12 Milwaukee County, Wisconsin, also appearing as  
13 special prosecutor.

14 ATTORNEY STRANG: And good morning. Steven  
15 Avery appears in person. He's represented by Jerome  
16 Buting, immediately to my left, and I am Dean  
17 Strang.

18 THE COURT: All right. We're here this  
19 morning, before we bring the jurors out, first of  
20 all, to discuss any comments the parties have on the  
21 opening instructions that have been provided by the  
22 Court. Before we get to that, are there any other  
23 issues that either party feels should be addressed  
24 before the jurors are brought in?

25 ATTORNEY KRATZ: The one logistical issue I



1 had was during the opening statements and the  
2 closing arguments the Clerk, Ms Bonin, has a switch  
3 near her which is called public seating or something  
4 of that nature. I'm going to ask that that switch,  
5 and I got the approval of the sheriff for that --

6 Quite frankly, Judge, with PowerPoint or  
7 other presentations in this area, the gallery and  
8 other spectators find it much easier to see those  
9 without that one bank of lights, the public  
10 seating lights. If Ms Bonin would like to try  
11 that at this point so the Court can see, I would  
12 appreciate that.

13 THE COURT: Go ahead.

14 ATTORNEY KRATZ: I think Mr. Buting  
15 indicated he had no objection. It just provides  
16 less glare and an opportunity for those in the  
17 public to observe what it is that we're talking  
18 about. Again, I suggest that just for openings and  
19 closings.

20 THE COURT: All right. Any objection?

21 ATTORNEY STRANG: There is not.

22 THE COURT: Anything else to take up before  
23 we address the opening instructions?

24 ATTORNEY STRANG: My thought is that we  
25 might take Mr. Avery's personal statement on

1       waiving -- or not waiving, but stipulating to the  
2       second element of Count 3 of the second Amended  
3       Information.

4               THE COURT: Very well. For the record, I  
5       will note the Court has previously been informed  
6       that the defendant intended to stipulate to the  
7       second element of the possession of a firearm  
8       charge; that is, the defendant's status as having  
9       been convicted of a felony before November 5 of  
10      2005.

11              Before I notify the jury that the  
12      defendant is making that stipulation, the Court  
13      has to make sure that the defendant is doing so  
14      knowingly and voluntarily. So, Mr. Avery, I'm  
15      going to be addressing these questions to you.

16              Before the Court accepts your  
17      stipulation to one of the elements of the felon  
18      in possession of a firearm charge, I'm going to  
19      be asking you a few questions. If you have any  
20      trouble understanding any question that I ask,  
21      let me know and I will let you speak with your  
22      attorneys.

23              Mr. Avery, do you understand that you  
24      have the right to a jury trial in this case and  
25      that includes the right to require the State to

1 prove every element of each offense charged,  
2 beyond a reasonable doubt, to all members of the  
3 jury? Do you understand that?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: You understand that in the case  
6 of the felon in possession of a firearm charge, this  
7 means that you can, if you wish, require the State  
8 to prove, beyond a reasonable doubt, that you were  
9 convicted of a felony before November 5 of 2005? Do  
10 you understand that?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: Do you further understand that,  
13 if you wish, you can stipulate; that is, you can  
14 agree that you were convicted of a felony before  
15 November 5 of 2005 and make further evidence on that  
16 issue irrelevant; do you understand that?

17 THE DEFENDANT: Yes, I do.

18 THE COURT: Do you wish to waive your right  
19 to a jury trial on that element; that is, agree that  
20 you were convicted of a felony before November 5 of  
21 2005?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: Have you had adequate  
24 opportunity to discuss your decision with your  
25 attorneys?



1 THE DEFENDANT: Yes.

2 THE COURT: And have your attorneys  
3 explained to you your right to a jury trial on this  
4 element?

5 THE DEFENDANT: Yes.

6 THE COURT: Has anyone made any promises or  
7 threats to you to give up your right to a jury trial  
8 on this element of the firearms charge?

9 THE DEFENDANT: No.

10 THE COURT: Do you understand each of the  
11 questions that I have asked you and what your  
12 attorneys have told you about this matter?

13 THE DEFENDANT: Yes.

14 THE COURT: Mr. Strang, have you had  
15 adequate opportunity to discuss this matter with  
16 your client?

17 ATTORNEY STRANG: Yes.

18 THE COURT: And do you believe that  
19 Mr. Avery is knowingly and voluntarily giving up his  
20 right to a jury trial on this particular element of  
21 the possession of a firearm charge?

22 ATTORNEY STRANG: On that element, yes, I  
23 do.

24 THE COURT: Very well, the Court does find  
25 that the defendant has knowingly and voluntarily



1 waived his right to a jury trial on the second  
2 element of the felon in possession of a firearm  
3 charge and the Court will accept the defendant's  
4 stipulation on that element.

5 ATTORNEY KRATZ: For the record, Judge, the  
6 State also acquiesces and accepts the stipulation.

7 THE COURT: Thank you. As I indicated  
8 previously, I have provided the parties with a copy  
9 of the Court's proposed opening instructions. And  
10 it's the Court's understanding that those proposed  
11 instructions are acceptable to each of the parties  
12 with the exception of some language involving the  
13 elements of the crime on the two counts that are  
14 charged as a party to the crime. First, counsel, am  
15 I correct in that understanding?

16 ATTORNEY KRATZ: Yes, Judge. Although the  
17 State, as Mr. Gahn and Mr. Fallon and I have spoken,  
18 and after our brief conversation in chambers, we are  
19 asking the Court adopt a very similar series of  
20 language that the Court has proposed in its last  
21 submission. I will be happy to put our ideas on the  
22 record, but you are correct, Judge, there is one  
23 change that we're requesting.

24 THE COURT: All right. And Mr. Strang.

25 ATTORNEY STRANG: We were satisfied with

1 the whole of the Court's final proposed instructions  
2 to be given preliminarily and we object to the  
3 modification that the State has offered.

4 THE COURT: All right. I will hear from  
5 the State first, then, on the proposed modification.

6 ATTORNEY KRATZ: Thank you, Judge. The  
7 substantive change that we are asking is that  
8 towards the bottom of page six of the preliminary  
9 instructions, when the Court reads the element of  
10 the offense for first degree intentional homicide,  
11 as a party to the crime, the Court submit the  
12 following language:

13 That Steven Avery caused the death of  
14 Teresa Halbach or aided and abetted Brendan  
15 Dassey in causing the death of Teresa Halbach.

16 As we have indicated throughout the jury  
17 selection process and, in fact, in motions before  
18 trial, whether Mr. Dassey testifies in this case  
19 at all or whether Brendan Dassey is to be  
20 referred to at all in this trial is still very  
21 much at issue.

22 To highlight or alert the jury that  
23 Brendan Dassey is the individual from which  
24 Mr. Avery acted in concert, we believe to be  
25 inappropriate and would, as some of the jurors



1 quite candidly indicated in jury selection,  
2 suggest that the State should, for whatever  
3 reason, be calling Mr. Dassey as a witness, not  
4 withstanding his Fifth Amendment rights not to do  
5 so, or against self-incrimination.

6 We're, therefore, Judge, asking that the  
7 elements read that Steven Avery caused the death  
8 of Teresa Halbach or aided and abetted another in  
9 causing the death of Teresa Halbach. Similar  
10 language would be inserted into the second  
11 element, again, removing the words Brendan Dassey  
12 and inserting the words another.

13 That provides no prejudice to the  
14 defense. It is an accurate statement of the law  
15 and, again, removes the suggestion that the State  
16 in some way has a burden, or obligation, or even  
17 practically speaking should call Mr. Dassey or  
18 insert Mr. Dassey into this case.

19 Lastly, Judge, if the Court adopts that  
20 change, then the statement or comment as to  
21 unanimous agreement not being required, further  
22 up on the page, on page No. 6, is in fact  
23 appropriate, is required, and we would ask -- I  
24 think that's joined by Mr. Strang -- that that  
25 instruction be reinserted and added in the

1 preliminary instructions.

2 THE COURT: Mr. Strang? Well, just --  
3 before I get to Mr. Strang, Mr. Kratz, what is the  
4 language, I'm looking at page 6, element one, what  
5 language exactly is the State proposing?

6 ATTORNEY KRATZ: Just instead of the name  
7 Brendan Dassey, you are just exchanging that with  
8 the word another.

9 THE COURT: Just a second.

10 ATTORNEY KRATZ: Aided and abetted another  
11 in the commission of the crime. I think that's a  
12 correct statement of the law and as I mentioned,  
13 Judge, removes the suggestion that the State have an  
14 obligation to set forth its theory of the  
15 prosecution when it may very well be that Mr. Dassey  
16 not testify in this case.

17 THE COURT: So, you are proposing to read  
18 Steven Avery caused the death of Teresa Halbach or  
19 aided and abetted another in causing the death?

20 ATTORNEY KRATZ: That's right.

21 THE COURT: And with respect to the other  
22 references to Mr. Dassey in this count and the other  
23 count, you are proposing that in each case it be  
24 replaced with another.

25 ATTORNEY KRATZ: Yes, Judge.



1 THE COURT: Mr. Strang.

2 ATTORNEY STRANG: How I wish that on  
3 March 2, 2006, the State had thought it as  
4 inappropriate to pair Brendan Dassey and Steven  
5 Avery in the commission of these crimes as it thinks  
6 it today. And the 11 months of prejudicial  
7 publicity that we have had, perhaps we would have  
8 been spared, if the State thought then that it was  
9 inappropriate to link these two together as  
10 co-actors, accomplices in the death of Teresa  
11 Halbach.

12 Today is too late to do that. To now  
13 insert the ambiguous term "another", which  
14 potentially includes the whole world, is to  
15 invite the very speculation about who an  
16 accomplice may have been or who a third party  
17 culprit may have been, that the State  
18 successfully opposed when we made a fairly  
19 elaborate proffer on possible third party actors.

20 Up through that motion, it was the  
21 State's position that Brendan Dassey, and Brendan  
22 Dassey only, was the possible third party or  
23 accomplice in this crime. And now, on no showing  
24 at all of the potential culpability of another,  
25 the State proposes to throw open the field of

1 possible accomplice liability to the entire  
2 world.

3 That's not fair. It's not consistent  
4 with the positions the State has taken to date  
5 and it leaves Mr. Avery, on the one hand, unable  
6 to suggest directly the liability of a third  
7 person; and yet, on the other hand, defending a  
8 potentially shifting or unstated theory on who  
9 his accomplice or accessory may have been.

10 The State's choices on this case and on  
11 the history of it before seem to me pretty clear.  
12 Either stick with Brendan Dassey as the man you  
13 think is the accomplice and prove it, or drop the  
14 party to a crime allegation in Count 1 and Count  
15 2 altogether and prove that Steven Avery  
16 committed this crime without allowing him to run  
17 the risk of accessory as a liability to a  
18 phantom.

19 Those seem to me the two legitimate  
20 choices. That's why we accepted and agreed with  
21 and thought accurate the Court's final draft of  
22 the preliminary jury instructions. We equally  
23 would accept a redraft that struck the party to a  
24 crime theory altogether, but that's the State's  
25 choice to make.

1                   It's allowed to decide on what theory of  
2                   liability it will proceed. It is not allowed on  
3                   the morning of opening statements to back away  
4                   from the man it has roped to Steven Avery for 11  
5                   months and say, could have been anybody. Just  
6                   another. Just not fair.

7                   And I would ask the Court to leave the  
8                   instructions as they are, unless the State wishes  
9                   to drop the party to the crime theory of  
10                  liability in which case the instructions would be  
11                  confined to Steven Avery alone.

12                  As to unanimous agreement, I don't know  
13                  that I have talked with the State about this at  
14                  all and, in fact, I don't think that unanimous  
15                  agreement requirement should be added back. The  
16                  Court had struck it; it should remain stricken.  
17                  And the reason is really very straight forward.

18                  Understanding that there is Wisconsin  
19                  law to the contrary, my view of the due process  
20                  requirement in the 14th Amendment and the right  
21                  to a unanimous verdict that it embraces is that  
22                  the jury, all 12, must be unanimous on whether  
23                  the defendant is the principal, the defendant  
24                  directly committed the crime, or whether he was  
25                  an accessory, that is, an aider and abettor.



1                   Now, I agree, for purposes of discussion  
2                   in the abstract, that which of two means of  
3                   aiding and abetting that Wisconsin law  
4                   recognizes, those, let's assume for the sake of  
5                   argument, jurors need not agree on unanimously.  
6                   Once they have decided unanimously, that it is as  
7                   a party to the crime rather than as the principal  
8                   that the defendant has been proven guilty.

9                   But this instruction allows jurors to  
10                  differ and to return a verdict that is not  
11                  unanimous on the fundamental question of whether  
12                  one is a principal, or liable as an accessory, an  
13                  aider abettor, or a party to the crime.

14                  Unanimity instruction, therefore, ought  
15                  not be given at all at this point. By final  
16                  instructions, I'm confident that the parties and  
17                  the Court, in the end, can draft an instruction  
18                  that treats unanimity properly.

19                  THE COURT: All right. There appear to be  
20                  two points that separate the parties. And I'm going  
21                  to rule as follows: First of all, before I indicate  
22                  the Court's decision, I think it's important to note  
23                  that what we're talking about here are not the  
24                  closing instructions that the jury is going to get  
25                  when it's time to deliberate on the verdict, but



1       rather opening instructions, the purpose of which is  
2       simply to make it easier for the jurors to follow  
3       the evidence and understand what it is the State has  
4       to prove in order to justify a guilty verdict.

5               With that thought in mind, I think it's  
6       best to steer clear of controverted issues that  
7       may be clarified as the evidence comes in. The  
8       instructions the Court gives in the opening are  
9       not necessarily the instructions that will be  
10      given in the closing. It's easier to be more  
11      specific at that time once the Court knows what  
12      the evidence is.

13             For those reasons, I'm going to --  
14      Actually, I previously changed the elements of  
15      the crime language on the two party to the crime  
16      charges based on a format submitted by the  
17      defense. I'm going to continue to use the  
18      defense format, but I will substitute another for  
19      Brendan Dassey.

20             I agree that it's not a good idea at the  
21      start of the trial to focus attention on  
22      Mr. Dassey; although, I understand that's the  
23      basis of the State's party to the crime theory.  
24      When the closing instructions are given,  
25      depending on how the evidence comes in, the

1 request being made by the defense may well be  
2 appropriate. But for purposes of the opening  
3 instructions, which are simply to outline the  
4 elements that the State must prove, I don't think  
5 that level of specificity is required.

6 With respect to the unanimity language,  
7 as I indicated to the parties in prior  
8 correspondence, while the comment to the party to  
9 the crime instruction would suggest that the  
10 unanimity requirement is appropriate, the Court  
11 has not had a chance to fully address the defense  
12 arguments and there are arguments to the contrary  
13 that I believe must be addressed before the Court  
14 is in a position to make a final decision.

15 It's not necessary during the opening  
16 instructions to tell the jury whether or not they  
17 have to be unanimous. The instructions are  
18 intended to help them follow the evidence.  
19 Therefore, I am not going to include the  
20 unanimity language in the opening instructions.

21 I did previously reword the opening  
22 language to the substantive instructions to  
23 notify the jurors that the Court is going to be  
24 reading portions of the specific jury  
25 instructions. So certainly the possibility is

1 left open that the unanimity language can be  
2 inserted in the closing instructions.

3 I believe that addresses the parties  
4 comments with respect to the opening  
5 instructions. Is there anything else either  
6 party feels should be addressed before we bring  
7 in the jurors and swear the jury?

8 ATTORNEY KRATZ: Judge, one housekeeping  
9 matter, I don't know if you have reminded the jurors  
10 or perhaps -- excuse me -- the public as they were  
11 brought in, but without an interest in having a Mike  
12 Sherman moment, perhaps all cell phones should be  
13 turned off. I don't know if that was something --

14 THE COURT: Actually, the Court has ordered  
15 that no cell phones be permitted in the courtroom  
16 and I trust that the folks guarding the entrance to  
17 the door have enforced that requirement.

18 ATTORNEY KRATZ: And the attorneys as well,  
19 Judge, at least the State has taken care of that and  
20 that's the only other comment we have. Thank you.

21 THE COURT: Anything else from the defense?

22 ATTORNEY STRANG: Nothing here, your Honor.

23 THE COURT: If not, we can have the jury  
24 brought in.

25 (Jury panel present.)



1 THE COURT: Good morning, jurors, you can  
2 be seated for a brief period of time. The Court has  
3 already called this morning the case of State of  
4 Wisconsin vs. Steven Avery, Case No. 05 CF 381. In  
5 a minute I'm going to read to you some opening  
6 instructions in this case, but before we do that,  
7 the Clerk will swear you in. So at this time I will  
8 ask you to all please rise.

9 THE CLERK: If you all would raise your  
10 right hand.

11 (Jury panel sworn.)

12 THE CLERK: Please be seated.

13 THE COURT: Members of the jury, before the  
14 trial begins, there are certain instructions you  
15 should have to better understand your functions as a  
16 juror and how you should conduct yourself during the  
17 trial. Your duty is to decide the case based only  
18 on the evidence presented and the law given to you  
19 by the Court.

20 Do not let any personal feelings of bias  
21 or prejudice about such things as race, religion,  
22 national origin, sex, or age affect your  
23 deliberations.

24 Do not begin your deliberations and  
25 discussion of the case until all the evidence is



1 presented and I have instructed you on the law.

2 Do not discuss this case among  
3 yourselves or with anyone else until your final  
4 deliberations in the jury room.

5 We'll stop or recess from time to time  
6 during the trial. You may be excused from the  
7 courtroom when it is necessary for me to hear  
8 legal arguments from the lawyers.

9 If you come into contact with any of the  
10 parties, lawyers or witnesses, do not speak with  
11 them. For their part, the parties, lawyers and  
12 witnesses will not contact or speak with the  
13 jurors.

14 As the Court has previously informed  
15 you, the jury will not be sequestered during this  
16 trial. That decision is dependent on the jurors  
17 not listening to, watching, or reading any news  
18 accounts of the case during the trial, nor  
19 discussing it with anyone, including members of  
20 your family, or other jurors.

21 For these reasons it is vital that you  
22 do not listen to any conversation about the case.  
23 Do not read any newspaper or internet reports or  
24 listen to any news reports on radio or television  
25 about this trial.

1           To assure that you are not exposed to  
2           improper media coverage, the Court is ordering  
3           that, for the duration of the trial, you do not  
4           watch the local news on television; do not listen  
5           to the local news on the radio; and do not read  
6           the newspaper, unless you first have someone  
7           remove any articles about this case.

8           In addition, do not visit any internet  
9           websites or web logs which may include any  
10          information about the case. Should you be  
11          exposed to any reports or communications from any  
12          source concerning the case during the trial, you  
13          should report that information to the jury  
14          bailiff.

15          Do not investigate this case on your own  
16          or visit the scene. Do not engage in any  
17          experimentation or research relating to any  
18          issues, facts, or persons involved in the case.

19          Do not consult dictionaries, computers,  
20          websites, or other reference materials for any  
21          additional information.

22          The Court is aware that many of you have  
23          been exposed to publicity concerning this case  
24          before you were selected to serve as a juror.  
25          Each of you has committed to base your verdict

1           only on the evidence introduced during the trial.  
2           It is of vital importance to the parties and to  
3           the sanctity of the court process that you remain  
4           true to this commitment.

5                     Anything you may see or hear outside the  
6           courtroom is not evidence. You are to decide the  
7           case solely on the evidence that is offered and  
8           received at trial.

9                     Evidence is defined as, first, the sworn  
10          testimony of witnesses both on direct and  
11          cross-examination, regardless of who called the  
12          witness.

13                    Second, the exhibits the Court has  
14          received.

15                    And, third, any facts to which the  
16          lawyers have agreed or stipulated or which the  
17          Court has directed you to find.

18                    Attorneys for each side have the right  
19          and the duty to object to what they consider are  
20          improper questions asked of witnesses and to the  
21          admission of other evidence which they believe is  
22          not properly admissible. You should not draw any  
23          conclusions from the fact an objection was made.  
24          By allowing testimony or other evidence to be  
25          received over the objection of counsel, the Court



1 is not indicating any opinion about the evidence.  
2 You jurors are the judges of the credibility of  
3 the witnesses and the weight of the evidence.

4 You are not required to, but you may  
5 take notes during this trial except during the  
6 opening statements and the closing arguments.  
7 The Court will provide you with materials for  
8 this purpose. In taking notes, you must be  
9 careful that it does not distract you from  
10 carefully listening to and observing the  
11 witnesses.

12 You may rely on your notes to refresh  
13 your memory during your deliberations, otherwise  
14 keep them confidential. Your notes will be  
15 collected by the jury bailiff after each day's  
16 session and kept in a secure place until the next  
17 day of trial. After the trial, the notes will be  
18 collected and destroyed.

19 You will not have a copy of the written  
20 transcript of the trial testimony available for  
21 use during your deliberations. You may ask to  
22 have specific portions of the testimony read to  
23 you. You should pay careful attention to all the  
24 testimony because you must rely primarily on your  
25 memory of the evidence and the testimony

1 introduced during the trial.

2 It is the duty of the jury to scrutinize  
3 and to weigh the testimony of witnesses and  
4 determine the effect of the evidence as a whole.  
5 You are the sole judges of the credibility; that  
6 is, the believability of the witnesses and of the  
7 weight to be given to their testimony.

8 In determining the credibility of each  
9 witness and the weight you give to the testimony  
10 of each witness, consider these factors:

11 Whether the witness has an interest or  
12 lack of interest in the result of the trial.

13 The witness' conduct, appearance and  
14 demeanor on the witness stand.

15 The clearness or lack of clearness of  
16 the witness' recollections.

17 The opportunity the witness had for  
18 observing and knowing the matters the witness  
19 testified about.

20 The reasonableness of the witness'  
21 testimony.

22 The apparent intelligence of the  
23 witness.

24 Bias or prejudice, if any has been  
25 shown.

1                   Possible motives for falsifying  
2 testimony.

3                   And all other factors -- excuse me --  
4 all other facts and circumstances during the  
5 trial which tend either to support or to  
6 discredit the testimony.

7                   Then give to the testimony of each  
8 witness the weight you believe it should receive.  
9 There is no magic way for you to evaluate the  
10 testimony. Instead, you should use your common  
11 sense and experience. In everyday life you  
12 determine for yourselves the reliability of  
13 things people say to you; you should do the same  
14 thing here.

15                  To assist you in evaluating the  
16 evidence, I will now read to you portions of the  
17 specific jury instructions for the offenses with  
18 which the defendant is charged. I will read them  
19 to you in their entirety at the close of the  
20 evidence.

21                  Count 1 of the Information charges the  
22 defendant with first degree intentional homicide  
23 as a party to the crime. Section 939 of the  
24 Criminal Code of Wisconsin provides that whoever  
25 is concerned in the commission of a crime as a



1 party to that crime and may be convicted of that  
2 crime although that person did not directly  
3 commit it.

4 The State contends that the defendant  
5 was concerned in the commission of the crime of  
6 first degree intentional homicide by either  
7 directly committing it or by intentionally aiding  
8 and abetting the person who directly committed  
9 it.

10 If a person intentionally aids and abets  
11 the commission of a crime, then that person is  
12 guilty of the crime as well as the person who  
13 directly committed it. A person intentionally  
14 aids and abets the commission of a crime when,  
15 acting with acknowledge or belief that another  
16 person is committing or intends to commit a  
17 crime, he knowingly either assists the person who  
18 commits the crime or is ready and willing to  
19 assist and the person who commits the crime knows  
20 of the willingness to assist.

21 To intentionally aid and abet the crime  
22 of first degree intentional homicide, the  
23 defendant must know that another person is  
24 committing or intends to commit the crime of  
25 first degree intentional homicide and have the

1 purpose to assist in the commission of that  
2 crime.

3 Before you may find the defendant guilty  
4 of first degree intentional homicide as a party  
5 to the crime, the State must prove, by evidence  
6 which satisfies you, beyond a reasonable doubt,  
7 that the defendant directly committed the crime  
8 or intentionally aided and abetted the commission  
9 of the crime.

10 First degree intentional homicide as  
11 defined in Section 940.01 of the Criminal Code of  
12 Wisconsin is committed by one who causes the  
13 death of another human being with intent to kill  
14 that person or another. Before you may find the  
15 defendant guilty of first degree intentional  
16 homicide, the State must prove, by evidence which  
17 satisfies you, beyond a reasonable doubt, that  
18 the following two elements were present:

19 One, Steven Avery caused the death of  
20 Teresa Halbach or aided and abetted another in  
21 causing the death of Teresa Halbach. Cause means  
22 that the defendant's act was a substantial factor  
23 in producing the death.

24 Two, Steven Avery acted with the intent  
25 to kill Teresa Halbach whether he did so directly

1 or aided and abetted another.

2 Intent to kill means that the defendant  
3 had the mental purpose to take the life of  
4 another human being or was aware that his conduct  
5 was practically certain to cause the death of  
6 another human being. While the law requires that  
7 the defendant acted with intent to kill, it does  
8 not require that the intent exists for any  
9 particular length of time before the act is  
10 committed.

11 The act need not be brooded over,  
12 considered, or reflected upon for a week, a day,  
13 an hour, or even for a minute. There need not be  
14 any appreciable time between the formation of the  
15 intent and the act. The intent to kill may be  
16 formed at any time before the act, including the  
17 instant before the act and must continue to exist  
18 at the time of the act.

19 You cannot look into a person's mind to  
20 find intent. Intent to kill must be found, if  
21 found at all, from the defendant's acts, words,  
22 and statements, if any, and from all the facts  
23 and circumstances in this case bearing upon  
24 intent.

25 Intent should not be confused with



1 motive. While proof of intent is necessary to a  
2 conviction, proof of motive is not. Motive  
3 refers to a person's reason for doing something.

4 While motive may be shown as a  
5 circumstance to aid in establishing the guilt of  
6 the defendant, the State is not required to prove  
7 motive on the part of a defendant in order to  
8 convict. Evidence of motive does not, by itself,  
9 establish guilt. You should give it the weight  
10 you believe it deserves, under all the  
11 circumstances.

12 If you are satisfied, beyond a  
13 reasonable doubt, at the conclusion of the trial,  
14 that the defendant directly committed both  
15 elements of first degree intentional homicide,  
16 you should find the defendant guilty. If you are  
17 not so satisfied, you must find the defendant not  
18 guilty.

19 Count 2 charges the defendant with  
20 mutilating a corpse, also as a party to the  
21 crime. The State contends that the defendant was  
22 concerned in the commission of the crime of  
23 mutilating a corpse by either directly committing  
24 it or by intentionally aiding and abetting the  
25 person who committed it.

1                   Before you may find the defendant guilty  
2                   of mutilating a corpse as a party to the crime,  
3                   the State must prove, by evidence which satisfies  
4                   you, beyond a reasonable doubt, that the  
5                   defendant committed the -- directly committed the  
6                   crime of mutilating a corpse or intentionally  
7                   aided and abetted the commission of that crime.

8                   Mutilating a corpse as defined in  
9                   Section 940.11 (1) of the Criminal Code of  
10                  Wisconsin is violated by one who mutilates a  
11                  corpse with intent to conceal a crime or avoid  
12                  apprehension, prosecution, or conviction for a  
13                  crime. Before you may find the defendant guilty  
14                  of this offense, the State must prove, by  
15                  evidence which satisfies you, beyond a reasonable  
16                  doubt, that the following two elements were  
17                  present:

18                  One, Steven Avery mutilated the corpse  
19                  of Teresa Halbach or aided and abetted another in  
20                  mutilating the corpse of Teresa Halbach.

21                  Two, in mutilating the corpse of Teresa  
22                  Halbach or in aiding and abetting another in  
23                  mutilating her corpse, Steven Avery acted with  
24                  the intent to conceal a crime. This requires  
25                  that the defendant acted with the purpose to

1           conceal a crime.

2                   If you are satisfied, beyond a  
3           reasonable doubt, at the conclusion of the trial,  
4           that Steven Avery directly committed both  
5           elements of this offense, you should find the  
6           defendant guilty. If you are not so satisfied,  
7           you must find the defendant not guilty.

8                   Count 3 charges the defendant with felon  
9           in possession of a firearm. Section 941.29 of  
10          the Criminal Code of Wisconsin is violated by a  
11          person who possesses a firearm, if that person  
12          has been convicted of a felony.

13                   Before you may find the defendant guilty  
14          of this offense, the State must prove, by  
15          evidence which satisfies you, beyond a reasonable  
16          doubt, that the following two elements were  
17          present:

18                   One, the defendant possessed a firearm.  
19          Firearm means a weapon which acts by the force of  
20          gunpowder. It is not necessary that the firearm  
21          was loaded or capable of being fired.

22                   Possess means that the defendant  
23          knowingly had actual physical control of a  
24          firearm. An item is in a person's possession if  
25          it is in an area over which the person has



1 control and the person intends to exercise  
2 control over the item.

3 Two, the second element, is that the  
4 defendant had been convicted of a felony before  
5 November 5, 2005. The parties in this case have  
6 agreed that Steven Avery was convicted of a  
7 felony before November 5, 2005 and you must  
8 accept this as conclusively proved.

9 If you are satisfied, beyond a  
10 reasonable doubt, at the conclusion of the trial,  
11 that both elements of this offense have been  
12 proved, you should find the defendant guilty. If  
13 you are not so satisfied, you must find the  
14 defendant not guilty.

15 The final count charges the defendant  
16 with false imprisonment. False imprisonment as  
17 defined in Section 940.30 of the Criminal Code of  
18 Wisconsin is committed by one who intentionally  
19 confines or restrains another without the  
20 person's consent and with knowledge that he has  
21 no lawful authority to do so.

22 Before you may find the defendant guilty  
23 of this offense the State must prove, by evidence  
24 which satisfies you, beyond a reasonable doubt,  
25 that the following five elements were present:

1                   One, the defendant confined or  
2                   restrained Teresa Halbach during her lifetime.

3                   Two, the defendant confined or  
4                   restrained Teresa Halbach intentionally. This  
5                   requires that the defendant have the mental  
6                   purpose to confine or restrain Teresa Halbach.

7                   Three, Teresa Halbach was confined or  
8                   restrained without her consent.

9                   Four, the defendant had no lawful  
10                  authority to confine or restrain Teresa Halbach.

11                  Five, the defendant knew that Teresa  
12                  Halbach did not consent and knew that he did not  
13                  have lawful authority to confine or restrain  
14                  Teresa Halbach.

15                  Although this requires genuine restraint  
16                  or confinement, it does not require that it be in  
17                  a jail or prison. If the defendant deprived  
18                  Teresa Halbach of freedom of movement or  
19                  compelled her to remain where she did not wish to  
20                  remain, then Teresa Halbach was confined or  
21                  restrained.

22                  The use of physical force is not  
23                  required. One may be confined or restrained by  
24                  acts, or words, or both.

25                  You cannot look into a person's mind to

1 find out intent or knowledge. Intent and  
2 knowledge must be found, if at all, from the  
3 defendant's acts, words, and statements, if any,  
4 and from all the facts and circumstances in this  
5 case bearing upon intent and knowledge.

6 If you are satisfied, beyond a  
7 reasonable doubt, at the conclusion of the trial,  
8 that all five elements of this offense have been  
9 proproved -- excuse me -- have been proved, you  
10 should find the defendant guilty. If you are not  
11 so satisfied, you must find the defendant not  
12 guilty.

13 In reaching your verdict examine the  
14 evidence with care and caution. Act with  
15 judgment, reason and prudence. Defendants are  
16 not required to prove their innocence, the law  
17 presumes that every person charged with the  
18 commission of an offense is innocent. This  
19 presumption requires a finding of not guilty,  
20 unless in your deliberations you find it is  
21 overcome by evidence which satisfies you, beyond  
22 a reasonable doubt, that the defendant is guilty.

23 The burden of establishing every fact  
24 necessary to constitute guilt is upon the State.  
25 Before you can return a verdict of guilty, the



1 evidence must satisfy you, beyond a reasonable  
2 doubt, that the defendant is guilty. If you can  
3 reconcile the evidence, upon any reasonable  
4 hypothesis consistent with the defendant's  
5 innocence, you should do so and return a verdict  
6 of not guilty.

7 The term reasonable doubt means a doubt  
8 based upon reason and common sense. It is a  
9 doubt for which a reason can be given, arising  
10 from a fair and rational consideration of the  
11 evidence or lack of evidence. It means such a  
12 doubt as would cause a person of ordinary  
13 prudence to pause or hesitate when called upon to  
14 act in the most important affairs of life.

15 A reasonable doubt is not a doubt which  
16 is based on mere guesswork or speculation. A  
17 doubt which arises merely from sympathy or from  
18 fear to return a verdict of guilt is not a  
19 reasonable doubt.

20 A reasonable doubt is not a doubt such  
21 as may be used to escape the responsibility of a  
22 decision. While it is your duty to give the  
23 defendant the benefit of every reasonable doubt,  
24 you are not to search for doubt, you are to  
25 search for the truth.

1                   As you know, although this is a  
2 Manitowoc County case with a Manitowoc County  
3 jury, the case is being tried at the Calumet  
4 County Courthouse. You will learn that when  
5 Steven Avery became a suspect in this case, the  
6 Manitowoc County District Attorney turned control  
7 of the case over to the Calumet County District  
8 Attorney because Mr. Avery had a lawsuit pending  
9 against Manitowoc County at the time.

10                  For logistical reasons, the parties  
11 jointly requested that the trial be held in  
12 Calumet County and the Court granted that  
13 request. You should draw no inference for or  
14 against either party to this case because of the  
15 location of the trial, or the fact that it is not  
16 being prosecuted by the Manitowoc County District  
17 Attorney.

18                  In a few minutes the lawyers will make  
19 opening statements. The purpose of an opening  
20 statement is to give the lawyers an opportunity  
21 to tell you what they expect the evidence will  
22 show, so that you will better understand the  
23 evidence as it is introduced during the trial. I  
24 must caution you, however, that the opening  
25 statements are not evidence.

*Opening  
Statement*

1                   At this time we're going to take a very  
2                   short break so that the State may get its  
3                   equipment ready to present the opening statement.  
4                   We'll be back in just a few minutes.

5                   (Jury not present.)

6                   THE COURT: Five minutes, counsel.

7                   ATTORNEY KRATZ: That's fine.

8                   (Recess taken.)

9                   (Jury present.)

10                  THE COURT: You may be seated. Members of  
11                  the jury, at this time we're going to hear the  
12                  opening statement from the State. Mr. Kratz, you  
13                  may begin.

14                  ATTORNEY KRATZ: Thank you, Judge. May it  
15                  please the Court, ladies and gentlemen of the jury,  
16                  Mr. Strang, Mr. Buting, Mr. Avery, good morning.

17                  MR. AVERY: Good morning.

18                  ATTORNEY KRATZ: We're all a little nervous  
19                  this morning. And I think that if we admit that,  
20                  we, being the lawyers, and the jurors asked to  
21                  decide this important matter, I think we're all  
22                  going to be better off.

23                  And on behalf of the State, let me first  
24                  start by thanking you, thanking you for your jury  
25                  service, thanking you for your attention that you



1 are about to give in this case, and thanking you  
2 in detail for what in jury selection we talked  
3 about may perhaps be the most important decision  
4 that you will ever make, at least for the rest of  
5 your lives.

6 You will note, and we have already  
7 introduced, that there are three attorneys on  
8 this case, myself, Ken Kratz, the Calumet County  
9 District Attorney. This is my courthouse. And  
10 I'm joined by Mr. Fallon who is seated directly  
11 to my right. Mr. Fallon is an Assistant Attorney  
12 General with the Department of Justice. And  
13 joining us also is Mr. Norm Gahn.

14 ATTORNEY GAHN: Good morning.

15 ATTORNEY KRATZ: Mr. Gahn is an Assistant  
16 District Attorney in Milwaukee County, Wisconsin.  
17 You will learn that each of us are special  
18 prosecutors in this case. But what's so special  
19 about a special prosecutor? Why would some small  
20 town lawyer from Chilton be in charge of this entire  
21 prosecution, this big of a case? Why would Ken  
22 Kratz be asked to lead up this prosecution?

23 We'll talk about how this case was  
24 assigned over, but just understand, at least for  
25 this person, that although we are all experienced

1 prosecutors, we're doing a favor for Manitowoc  
2 County. It's a rather big favor for Manitowoc  
3 County, but it's a favor nonetheless. It is  
4 helping the Manitowoc County District Attorney's  
5 Office in presenting this case.

6 Mr. Rohrer, your District Attorney,  
7 asked me to take over the case early on. You  
8 will learn about when that happened. But it is  
9 still something that we were simply asked to and  
10 we did, in fact, perform.

11 There's two investigators in this case.  
12 Now, you are going to hear that there were  
13 hundreds of law enforcement officers involved in  
14 this investigation, but these kinds of cases  
15 require direction. They require leadership by  
16 law enforcement officials that have experience.

17 The first lead investigator in the case  
18 who is seated in the courtroom is Mark Wiegert.

19 MR. WIEGERT: Good morning.

20 ATTORNEY KRATZ: Mr Wiegert is an  
21 investigator with the Calumet County Sheriff's  
22 Department.

23 The other lead investigator in this case  
24 is Tom Fassbender. Mr. Fassbender works for the  
25 Department of Justice. He works for a law

1 enforcement branch of the Department of Justice  
2 which is called the Division of Criminal  
3 Investigation.

4 And, again, knowing who we are, knowing  
5 who the five of us are, the prosecution team, we  
6 hope may help in determining what's important in  
7 these cases.

8 The Judge has told you, at least in  
9 brief terms, what an opening statement is. But  
10 often times evidence comes in in bits and pieces,  
11 especially in a six week trial. That isn't  
12 something that you will expect all of the  
13 evidence to come at you at once. And so if we  
14 can provide a road map or an overview of what the  
15 evidence is going to show, that should be helpful  
16 for you.

17 Some juries that I have spoken to, it's  
18 been helpful to describe this process as the  
19 provision of the cover of a jigsaw puzzle box.  
20 All right. You think of evidence as pieces in a  
21 jigsaw puzzle. You wouldn't tell, if you were  
22 handed one piece of a jigsaw puzzle, where that's  
23 going to go. But if you got the box and if you  
24 have the box, some of the pieces are obvious  
25 where they go; some are not so obvious, but at



1           least, it's a guide. It's a help for you as to  
2           where these pieces all fit.

3                     Now, before I go any further, I want to  
4           talk to you about something that I know some of  
5           you, in your specific questions, expressed as  
6           some concern and that's the nature of the  
7           evidence that's going to be presented. This is a  
8           very, very serious crime and potentially has  
9           very, very graphic kinds of details that may be  
10          involved or may be presented.

11                    But there is some uncertainty about how  
12          much evidence is going to be presented. And I  
13          wanted to assure you, as the lead prosecutor, as  
14          the person responsible for the presentation of  
15          the case a couple of things.

16                    Number one, and perhaps most importantly  
17          for you, as the jury, I'm only going to present  
18          those pieces of evidence that are necessary;  
19          those pieces that are necessary to tell you the  
20          entire story. My job is not to present gruesome,  
21          or overly graphic information for you.

22                    And I think as we go through this  
23          process, you are going to find that the evidence  
24          is pretty straight forward. It is not  
25          necessarily gruesome or graphic, isn't something

1       that you should fear at this early stage. All  
2       right.

3               I understand the sensitivities not only  
4       of you, but of most of the people seated on the  
5       left hand side of the courtroom. And I --  
6       actually, I want you to look over to the left  
7       side of the courtroom. That's the Halbach  
8       family.

9               You are going to see them throughout the  
10       case, friends and family. And I want to assure  
11       you that before the first piece of evidence is  
12       ever introduced in this case, everyone of those  
13       people: The mother, the father, the brothers,  
14       the sisters, the friends, and any other family  
15       members that wanted to, have already seen all of  
16       this evidence. All right.

17              I sat down with them and as sensitively  
18       as I possibly could, allowed them an opportunity  
19       to review the evidence. That's just something  
20       that a prosecutor should do and that's all been  
21       done. So as you see photographs being presented,  
22       as you see physical evidence being brought into  
23       the courtroom; I want to assure you that the  
24       Halbach family already has seen it.

25              They have already known the kinds of

1 evidence that are going to be presented. And I  
2 think that that was necessary for you to hear and  
3 necessary for you to understand that this family  
4 does have that information.

5 The Judge has told you that there's four  
6 charges. I'm very, very briefly going to talk  
7 about those four, because I don't want to  
8 reiterate what the Judge did. But there are four  
9 separate charges that the defendant is charged  
10 with: First degree intentional homicide,  
11 mutilation of a corpse, felon in possession of a  
12 firearm and false imprisonment.

13 Now, the Judge instructed you and my job  
14 today in opening statement, again, this isn't  
15 evidence, but it is a help for you; it's the  
16 cover if you will; it's the road map; it's the  
17 overview, to talk about the first legal concept  
18 that you as a jury has to understand. And that's  
19 the concept called being a party to the crime.

20 The Judge has told you that that can be  
21 satisfied either if the defendant committed an  
22 offense himself or if the defendant aided and  
23 abetted another in the commission of the offense.  
24 Now, the first two counts, the homicide and the  
25 mutilation of a corpse are charged as a party to



1 the crime.

2 And so you will learn, at the conclusion  
3 of the case, six weeks from now, if you fast  
4 forward six weeks from now, that the jury  
5 instructions will tell you that if the defendant  
6 committed any of those elements himself, or if  
7 the defendant aided in another -- another --  
8 excuse me -- aided and abetted another in the  
9 commission of those offenses, that you can and  
10 should find him guilty.

11 Now, I can't stand up here and predict  
12 what the defense is going to bring into this  
13 case, what cross-examination they may encounter,  
14 or if they even choose to present any kind of  
15 defense, nor should I. That isn't my job.

16 My job, as the prosecutor, is to present  
17 our case, to present the physical evidence that  
18 we have developed, to present the witnesses that  
19 we have developed to prove our case. But just  
20 understand, and just remember this concept when  
21 it comes time to deciding whether or not the  
22 defendant is guilty.

23 The Judge also told you about something  
24 called elements of the offense. The State has  
25 the burden of proof here. The defense has

1 absolutely no burden. And our burden is to prove  
2 the case, beyond a reasonable doubt.

3 The Judge explained to you already that  
4 beyond a reasonable doubt means a doubt for which  
5 a reason can be given when considering all the  
6 evidence. Let me tell you what it is not,  
7 though. Beyond a reasonable doubt is not beyond  
8 all doubt. It's not 100 percent. And when we  
9 are dealing with a human justice system, you  
10 can't expect beyond all doubt, or beyond a shadow  
11 of a doubt, or comments sometimes that we have  
12 heard about that.

13 It's beyond a reasonable doubt. A doubt  
14 for which a reason can be given. And I'm  
15 standing before you, members of the jury, telling  
16 you that I accept that burden. I will prove this  
17 case, beyond a reasonable doubt. But we didn't  
18 want you going into this case expecting one  
19 hundred percent, or beyond all doubt, because  
20 there are human factors or dynamics that go into  
21 these cases.

22 Each charge, the Judge told you, has  
23 elements of those offense, we're going to go  
24 through those in just a minute. But, also, each  
25 of the four charges should be considered

1           separately. You shouldn't group them together  
2           and decide if he is guilty of all four or none.  
3           Each of the four counts are to be considered  
4           separately. And, in fact, there is separate  
5           evidence for all four of those counts.

6                     And, finally, the defendant is presumed  
7           innocent. As Mr. Avery sits here today, because  
8           you have heard no evidence in this case, he is  
9           presumed by you, or should be presumed by you, to  
10          be innocent. However, and this is a big however,  
11          that presumption disappears at that very moment  
12          when the evidence in this case satisfies you,  
13          beyond a reasonable doubt, that he is guilty of  
14          that offense. That presumption disappears at the  
15          moment that the evidence proves that he is  
16          guilty.

17                    Count 1, the Judge instructed you, has  
18          two elements. And why I'm telling you this and  
19          why I'm showing them on the screen or on a  
20          PowerPoint presentation is because these are  
21          serious, serious crimes; in fact, the most  
22          serious crimes that we have in the State of  
23          Wisconsin.

24                    The legal concepts aren't all that  
25          complex. We are talking about two things that we



1 have to prove, caused the death of somebody and  
2 did it intentionally. Nothing magic about that,  
3 nothing complex about that and all of you should  
4 be able to understand that.

5 The same thing with mutilation of a  
6 corpse, just the two elements; that he mutilated  
7 a corpse and that he did so to conceal a crime  
8 that had been committed. You will hear evidence  
9 in this case about what that crime was that he  
10 was trying to conceal. The crime, as you may  
11 have already guessed, is the first degree  
12 intentional homicide.

13 Mr. Avery is also charged with felon in  
14 possession of a firearm; again, two elements, the  
15 felon in possession. First, that he possessed  
16 the firearm, that seems obvious. And, number 2,  
17 that some time before November of 2005, he had  
18 been convicted of a felony.

19 Now, the Judge has told you that that  
20 second element is stipulated. Stipulation means  
21 that the facts are agreed to by the parties; that  
22 you can take that as already having been proved,  
23 beyond a reasonable doubt, that Mr. Avery has  
24 that felony conviction. And so it's just the  
25 first element of that offense that the State has

1 to prove. Do you all understand that? All  
2 right.

3 Now, false imprisonment has five  
4 separate elements to the offense. Those five  
5 elements are that he confined or restrained, note  
6 that that's in the disjunctive; he either  
7 confined or restrained Teresa Halbach,  
8 intentionally, without her consent. He didn't  
9 have authority and he knew that he didn't have  
10 authority to confine or restrain Ms Halbach.

11 All right. Enough of the civics lesson.  
12 Let's talk about what the evidence is going to  
13 show. On Monday, October 31st, 2005, beginning  
14 at approximately 2:45 p.m., the State intends to  
15 prove to you that the defendant restrained,  
16 murdered, and mutilated a 25 year old  
17 photographer named Teresa Halbach.

18 We're going to prove to you what  
19 happened. We're going to prove to you who  
20 committed this crime. We're going to prove to  
21 you where it happened. We're going to prove to  
22 you when, specifically, it happened. And those  
23 will prove all of the elements of the offense.

24 What we're not going to prove to you,  
25 what the Judge has already told you we don't have

1 to and, in fact, can't prove to you, is why. We  
2 can't prove the why in a case like this. That's  
3 called motive, the reason behind the killing;  
4 what was in Mr. Avery's mind when he decided to  
5 kill this lovely young woman.

6 I'm going to introduce you to somebody.  
7 This remarkable young woman was 25 years of age;  
8 she was single; she was a freelance photographer.  
9 She had her own photography business that was,  
10 although in its infancy, was doing quite well.

11 This woman, and I will remind you  
12 several times in this opening and throughout the  
13 trial, I will remind you that we're talking about  
14 a real person. We're talking about somebody's  
15 daughter, somebody's sister, a lot of people's  
16 friend. Teresa Halbach had her whole life in  
17 front of her and the evidence is going to show  
18 that on Halloween of 2005, that all ended, that  
19 ended in the hands of the defendant, Steven  
20 Avery.

21 It's such a big case, with such a big  
22 job that we have to try to present all of this  
23 investigation. I'm going to start from the  
24 beginning and I'm going to start talking about  
25 the investigation itself.



1 Ms Halbach was reported missing on the  
2 third of November, 2005. Ms Halbach worked for  
3 a -- at least part of her photography business  
4 was that she worked for a publication called *Auto*  
5 *Trader Magazine*. You are going to learn through  
6 the case and you are going to hear from several  
7 witnesses from *Auto Trader* that it is a magazine  
8 that, basically, is responsible for selling  
9 automobiles, some other things, trailers and the  
10 like, but mostly automobiles. And it's a  
11 publication that Teresa supplemented her income  
12 with.

13 Teresa was mostly responsible or mostly  
14 enjoyed taking photographs of weddings and was  
15 already developing quite a niche and quite a  
16 specialty taking pictures of little kids, of  
17 babies and young children. But to supplement her  
18 young business, she worked for *Auto Trader*  
19 *Magazine*. So to understand how this case  
20 transforms from a missing person investigation  
21 into what became one of the largest criminal  
22 investigations in Wisconsin history, starting  
23 from the beginning, we're starting from the  
24 investigation, is important for you to  
25 understand.

1                   The investigation determined that Teresa  
2                   Halbach took three pictures or at least had three  
3                   business stops on the 31st of October. Now, one  
4                   of those were a person by the name of  
5                   Mr. Schmitz; one of those was a person by the  
6                   name of Mr. Zipperer. And the third and the last  
7                   stop that she made late in the afternoon on the  
8                   31st was at the Steven Avery Salvage Property.

9                   The investigation early on determined  
10                  that this man, Steven Avery, called *Auto Trader*  
11                  *Magazine* at 8:12 that morning, on that very day,  
12                  on the 31st of October. And Mr. Avery asked,  
13                  specifically, that the same woman who has been  
14                  out here before, the same woman who on at least  
15                  six and perhaps more occasions had come out to  
16                  take pictures. Mr. Avery wanted her out there  
17                  the afternoon of the 31st.

18                  Now, two very critical findings very  
19                  early on in this investigation came to light:  
20                  Number 1, that Steven Avery was the one who lured  
21                  Ms Halbach out to the property on the 31st. But  
22                  number 2, and perhaps as importantly, Steven  
23                  Avery was the last person to see Teresa Halbach  
24                  alive.

25                  Who is this man? The Judge told you

1       that there was a lawsuit which was filed against  
2       Manitowoc County and many of you, in fact,  
3       virtually all of you, knew something about Steven  
4       Avery before serving on this particular jury.  
5       Mr. Avery achieved some degree of notoriety back  
6       in 2003 when he was exonerated for a 1985 sexual  
7       assault conviction.

8               You should know that that exoneration  
9       was based upon DNA evidence. You should know  
10      that that DNA evidence was performed by the  
11      Wisconsin State Crime Laboratory and it was  
12      performed by an analyst, the head of the DNA unit  
13      in Madison, a woman by the name of Sherry  
14      Culhane. I want you to remember that name  
15      because you are going to hear that name later on  
16      in this case.

17             Mr. Avery, as you already heard, later  
18      filed a civil lawsuit against Manitowoc County  
19      seeking compensation, seeking money for the --  
20      excuse me -- for the time that -- that he was  
21      wrongfully convicted. And it's that degree of  
22      notoriety, that's how Mr. Avery comes to you in  
23      this case. That may or may not have some things  
24      to do with this case.

25             Now, we understand and the evidence is



1 going to be clear, that Mr. Avery never should  
2 have been convicted in 1985 based upon  
3 eyewitness -- or mistaken eyewitness testimony;  
4 that there wasn't any DNA evidence, at least the  
5 DNA analysis wasn't to the level or to the point  
6 that it is now and certainly isn't anything like  
7 you are going to hear about in this case; and, in  
8 fact, should have been exonerated and was in  
9 2003.

10 We'll also tell you and at the close of  
11 this case I'm going to point to everyone of you  
12 presenting jurors and say that that has  
13 absolutely nothing to do with this case. When  
14 deciding who is accountable for the death of 25  
15 year old Teresa Halbach, Mr. Avery's past and his  
16 past exoneration have nothing to do with this  
17 case.

18 Ms Halbach, as you have heard, or she  
19 comes in this case as the -- part of a missing  
20 persons investigation. Now, Calumet County, and  
21 Mr. Wiegert, as a matter of fact, was in charge  
22 of that missing persons investigation early on.  
23 That's through the 3rd and the 5th. Those parts  
24 of the missing persons investigation that  
25 happened in Calumet County are Calumet County law

1 enforcement's responsibility. Those parts of the  
2 missing persons investigation that happened in  
3 Manitowoc County necessarily and appropriately  
4 are Manitowoc County's responsibility.

5 When looking for a 25 year old freelance  
6 photographer, there is nothing improper about  
7 Manitowoc County being involved in that case.  
8 You are going to learn, however, that on the 5th,  
9 on the 5th of November, at about 2:00 in the  
10 afternoon, Judge Jerome Fox, another judge from  
11 Manitowoc County, one of the three sitting judges  
12 in Manitowoc County, assigned me to be  
13 responsible for the prosecution and to assist in  
14 the investigation of this particular case.

15 You have already heard that the reason  
16 for that was something called a perceived  
17 conflict, an apparent conflict; that is, it may  
18 look bad if Manitowoc County remained involved.  
19 You are going to hear evidence from many law  
20 enforcement officers; in fact, the lead  
21 investigators in this case, that there was no  
22 actual conflict.

23 There was nothing that prohibited, or  
24 precluded, or legally made it impossible for  
25 Manitowoc County to keep performing or keep

1 assisting in this case. But we all felt it  
2 better; myself, Mr. Rohrer, the two district  
3 attorneys, Sheriff Pagel and the law enforcement  
4 officials for Manitowoc, that the case be  
5 transferred over to Calumet County and to DCI,  
6 the Division of Criminal Investigation, with the  
7 State to lead up the investigation.

8 Now, you are going to hear that  
9 Manitowoc County officials remained involved in  
10 the case. They remained involved in the  
11 investigation that when manpower, and we are  
12 going to be talking about how many police  
13 officers were necessary, that they remain in a  
14 helping or a support role, but the case is, in  
15 fact, turned over to Calumet County.

16 This particular photograph, I want you  
17 to look at for quite a bit of time as I'm  
18 talking. This is the Avery Salvage Yard, located  
19 in the Town of Gibson. This is a photo that you  
20 are going to see a lot during the course of this  
21 case. And this is, for the next six weeks, a  
22 property that you are going to come to know very,  
23 very well.

24 And so as Mr. Fallon and Mr. Gahn and I  
25 were talking about this opening statement, we



1 thought it appropriate that we introduce you to  
2 the Avery salvage property. First of all, it's a  
3 40 acre property. The entire square here is 40  
4 acres.

5 What you also need to understand is that  
6 all of these, appear to be little dots, are cars.  
7 These are all junked vehicles in the Avery  
8 salvage property. And a number that you are  
9 going to hear is that there are about 4,000  
10 junked vehicles on the Avery Salvage property.

11 There's four residences, four places  
12 where people live on the Avery salvage property.  
13 The first, in the lower left hand corner, which  
14 is the northwest corner of the property, is  
15 Steven Avery's trailer. That's where Steven  
16 Avery lived on the 31st of October.

17 Living next to Steven was his sister,  
18 Barb Janda. Barb had four sons that were living  
19 with her at the time. But when you kind of look  
20 at this property it's important to know where  
21 Barb Janda's trailer is.

22 Steven's parents, Allen and Delores  
23 Avery, also had a trailer, had a residence on the  
24 property. And that was up closer to what you  
25 will find out are some business buildings, the

1 salvage business itself was kind of up in this  
2 quadrant, or this corner of the yard.

3 And, finally, Steven's brother, Charles  
4 Avery, Chuck, also had a trailer on the property.  
5 All right.

6 Now, you are going to hear that  
7 surrounding this property on three sides was an  
8 active, working gravel quarry. And so we're  
9 going to have some larger aerial photos that  
10 we're going to show you in just a minute, but  
11 just to give you an idea of what's around this  
12 property, not just the 40 acres of search area,  
13 but hundreds of acres that surrounded that that  
14 were also included in the search.

15 Members of the jury, the evidence is  
16 going to show and you are going to hear from  
17 officers, when they talk about the search efforts  
18 in this case, that a search area this size is  
19 nothing short of overwhelming. All right. All  
20 of the places that the officers can look is  
21 absolutely overwhelming.

22 If you know anything about the case you  
23 will understand this event. But on Saturday, the  
24 5th of November, Pam and Nikole Sturm, two  
25 citizens, two citizen searchers, were given

1 permission and did search the Avery salvage  
2 property.

3 Pam and Nikole found the needle in the  
4 haystack. Pam and Nikole Sturm found the one  
5 vehicle on the property that all of the citizen  
6 searchers that you are going to hear about were  
7 looking for.

8 Now, there are several things that the  
9 evidence is going to show. And as you look at  
10 this photograph, several things about the  
11 attempts at whoever placed this vehicle here, to  
12 disguise it, to hide it, attempts to obscure its  
13 detection, you are going to learn, members of the  
14 jury, through this evidence in the case, that the  
15 vehicle was locked, that the four doors on this  
16 vehicle were locked when Pam and Nikole came upon  
17 it.

18 You are going to learn that the license  
19 plates were both removed, both the front and back  
20 license plates were removed from the vehicle.  
21 You are going to learn the battery was  
22 disconnected and you are also going to learn that  
23 the vehicle identification number was necessary  
24 to, in fact, identify this as Teresa Halbach's  
25 vehicle.



1                   Now, the evidence is also going to show  
2                   you where on the property Teresa Halbach's  
3                   vehicle was found. It was found in -- not  
4                   accidentally -- the furthest point from the  
5                   defendant's trailer. Again, you are going to  
6                   find that it was intentionally obscured, that it  
7                   had immediate access to something called a car  
8                   crusher on the property.

9                   And, again, just to orient you, Steven  
10                  Avery's trailer is in the lower left hand portion  
11                  of this particular photograph. Where it was  
12                  found was not an accident. We'll also tell you,  
13                  during the course of the introduction of the  
14                  testimony, that it's important where it wasn't  
15                  found. It wasn't found on a roadway. Wasn't  
16                  found in some mall parking lot. It was found on  
17                  the Avery salvage property, the family business  
18                  property.

19                 I talked about the car crusher; you will  
20                 hear a little bit about that piece of equipment  
21                 that was near or right next to Teresa Halbach's  
22                 vehicle. You are going to learn and you are  
23                 going to hear evidence sometime through this six  
24                 weeks how this piece of equipment works, how a  
25                 regular looking vehicle, car, SUV, truck, starts

1 out looking like a regular vehicle and ends up  
2 flattened or smashed.

3 You are going to learn why it's  
4 important that Teresa's vehicle was next to the  
5 car crusher and you are going to learn the  
6 numbers of crushed vehicles and how easily Teresa  
7 Halbach's vehicle could never have been found in  
8 this case. Could have been slipped in between,  
9 if you will, one of those other cars.

10 You will hear about a lot of  
11 professionals that were asked to perform  
12 assistance in this case. You are going to hear  
13 about law enforcement professionals; you are  
14 going to hear about Crime Lab analysts; you are  
15 going to hear about some very, very, well  
16 qualified expert witnesses.

17 And all of those professionals have two  
18 legs. One of them, though, has four. It's a  
19 Belgian Shepherd named Brutus. Brutus is a  
20 search and rescue -- or search and recovery dog  
21 that is insensitively called a "cadaver dog".

22 What Brutus does is one thing. Brutus  
23 is highly trained. And you are going to hear  
24 testimony from Brutus' handler, Julie Cramer.  
25 Brutus does one thing and that's find where a

1           deceased person has been.

2           The first official, first professional,  
3           to approach this vehicle after it's found, after  
4           law enforcement secures that area so nobody else  
5           can get around there, the first professional was  
6           a four legged variety. It was Brutus. It was a  
7           canine.

8           And Brutus, you are going to hear, was  
9           asked -- not directed towards this vehicle, but  
10          asked to just search around this particular  
11          location. You are going to hear evidence that  
12          late in the afternoon on the 5th, after the  
13          vehicle was found, after a search warrant was  
14          already obtained in this case, that Brutus, when  
15          approaching Teresa Halbach's vehicle, alerted.

16          It's called hitting on the vehicle. It  
17          was quite a dramatic alert. And you are going to  
18          hear from Ms Cramer about that. Sadly and  
19          unfortunately, that meant one thing to the  
20          handler and that meant one thing to the lead  
21          investigators in the case. Early on, they  
22          suspected, because of Brutus, because of this  
23          search and rescue dog, because of this cadaver  
24          dog, that a deceased individual either was in the  
25          back of this SUV, or at some point had been in



1 the back of that SUV.

2 Now, importantly, you are also going to  
3 hear that the police decided not to touch the  
4 vehicle at that time. The police decided not to  
5 process it even when the Crime Lab was on the  
6 scene.

7 You are going to hear that the Crime Lab  
8 loaded this vehicle onto an enclosed trailer,  
9 trucked the enclosed and intact SUV all the way  
10 to Madison, where on a Sunday, for a very brief  
11 amount of time, but mostly on Monday, that  
12 vehicle was processed by the experts. Processed  
13 by those state agents, by those State Crime Lab  
14 expert employees, analysts, when they made some  
15 very dramatic and very important findings in the  
16 case.

17 I don't want to get ahead of myself.  
18 Because on November 5th, on that first night, on  
19 that first afternoon, there were places to look,  
20 as you can imagine. After Teresa Halbach's  
21 vehicle was found on the Avery salvage property,  
22 Mr. Wiegert, Mr. Fassbender, directing many law  
23 enforcement officials, had a job to do.

24 Now, you saw the size of the Avery  
25 salvage property. You are going to hear

1 testimony from Mr. Fassbender. He's going to  
2 provide you with an idea about the methodology,  
3 about the plan, the search plan in this case.

4 You are going to hear Agent Fassbender  
5 talk about missing persons investigations and  
6 when they go from missing persons to criminal  
7 investigations, how their thought process  
8 changes. But at that early stage, when they find  
9 the vehicle, when they don't know that there is  
10 any blood in the back of the vehicle, when they  
11 don't know if a body is involved in this case,  
12 that Agent Fassbender and every other law  
13 enforcement officer, you will hear, at that  
14 scene, had one thing in mind and that was to find  
15 Teresa. The job of the police at the time was to  
16 find Karen Halbach's daughter.

17 And you are going to hear the evidence  
18 that the officers made very, very quick work of  
19 searching all of the residences on the Avery  
20 salvage property, all of the four residences, all  
21 of the outbuildings. They are searching for  
22 Teresa Halbach and the search plan, again, is to  
23 find the victim, find the victim's body.

24 But a secondary obligation of theirs is  
25 also to look for obvious signs of evidence,

1 right? You don't have to watch CSI to know that.  
2 At least a first kind of sweep, or a first kind  
3 of look through, or a first kind of search of all  
4 of these residences are to try to find obvious  
5 signs of a crime if, in fact, a crime did occur,  
6 or something that is going to help law  
7 enforcement find Teresa Halbach. Why I say all  
8 that is because Steven Avery -- With search  
9 warrant in hand, Steven Avery's residence was  
10 searched on the 5th.

11 Now, again, we're looking for Teresa's  
12 body, hopefully alive, but if not, it is  
13 important to find if she's on that property.  
14 Steven Avery's garage is searched, other  
15 residences, all of the other buildings on the  
16 residence are searched, the salvage business  
17 itself. But the 4,000 vehicles, in what you will  
18 hear was a torrential downpour, were also  
19 examined for the first time on the evening of the  
20 5th.

21 Now, law enforcement officers were  
22 involved in that, but Brutus' friends were also  
23 involved in that, other canines, the rest of the  
24 team, the other search and rescue animals, the  
25 canines, were taken in a downpour, in the pitch



1 dark, out on a 40 acre property. And everyone of  
2 these cars was encircled by one of those dogs  
3 trying to find Teresa Halbach.

4 Please recall, at this early stage, the  
5 police don't know what they are looking for yet.  
6 They don't really have an idea yet of the kinds  
7 of things that they are looking for. So when you  
8 remember this search plan, you will hear evidence  
9 and some officers may even call it the funnel  
10 approach, nothing fancy about calling it the  
11 funnel approach, it makes sense.

12 It's a way to describe search efforts.  
13 It is actually an interviewing technique as well.  
14 But it's a way to find evidence in a funnel type  
15 of approach. We're looking for the body first.  
16 Then we're looking for obvious signs of evidence.  
17 Then as you get closer and closer into more  
18 detail, more thorough, more directed searches,  
19 because you are able to go back into all of those  
20 places and all of those properties, that's the  
21 methodology.

22 And as you hear officers testify  
23 throughout this case, when they testify on the  
24 witness stand, remember that funnel approach.  
25 Remember that kind of methodology as they talk

1 about these kinds of things. But make no  
2 mistake, that on the first night, they are  
3 looking for Teresa and they are hoping to find  
4 Teresa alive.

5 When that was unsuccessful, the next  
6 morning, on the 6th, Mr. Fassbender, Mr. Wiegert,  
7 were able to secure some help. They needed  
8 bodies. They needed some cops. They needed some  
9 volunteers. And so they got volunteer  
10 firefighters from all over the Manitowoc and  
11 Calumet County areas.

12 And they all showed up in force, en  
13 masse, on the morning of Sunday, November 6th.  
14 And for the first time, everyone of those 4,000  
15 vehicles was opened up. Everyone of those 4,000  
16 trunks was opened by a firefighter with a police  
17 officer with them, looking for the body of Teresa  
18 Halbach.

19 Also on Sunday, November 6th, a firearm  
20 was found, or recovered; it was actually found  
21 the evening before. But it was seized; it was  
22 recovered. It was hanging over the bed of the  
23 defendant, Steven Avery. He thought it was  
24 appropriate to recover that as a piece of  
25 evidence and, in fact, it was.

1                   You are going to hear that the brand  
2                   name of this semi-automatic .22 caliber rifle is  
3                   Marlin. You are going to hear that it is  
4                   something called tube loaded. Not that any of  
5                   these things are going to mean much to you at  
6                   this point, but there are a number of bullets  
7                   that are able to be loaded into this  
8                   semi-automatic rifle.

9                   You are going to hear, by the way,  
10                  although hanging over Mr. Avery's bed and his  
11                  exercising control over that, should be obvious  
12                  that on the 31st of October, Mr. Avery exercised  
13                  a great deal more control.

14                  A deserving piece of evidence was seized  
15                  on the -- Sunday, the 6th of November. And it  
16                  is, what we believe, the last recorded voice of  
17                  25 year old Teresa Halbach. When Mr. Avery, the  
18                  evidence will show, made arrangements to have  
19                  this young woman come out to his property that  
20                  afternoon, he didn't use his own name.

21                  He didn't use the name Steven Avery.  
22                  Even though Ms Halbach had been out to the  
23                  property, as I told you, on a number of occasions  
24                  before; Mr. Avery used a different person's name.  
25                  He used the name B. Janda, the initial B. Janda,



1 J-a-n-d-a. That's Barb Janda, can be Barb Janda,  
2 but when we called the *Auto Trader Magazine*  
3 people in Milwaukee, and you are going to hear  
4 from Ms Schuster and Ms Pliszka, two employees of  
5 *Auto Trader*, Mr. Avery used the name and used the  
6 number for B. Janda.

7 Teresa Halbach doesn't know who B. Janda  
8 is. You are going to hear evidence that Ms  
9 Halbach called back the telephone number for Barb  
10 Janda and she left this voice mail. This voice  
11 mail was recovered, was retrieved. You are going  
12 to hear this voice mail.

13 And you are going to hear from Teresa in  
14 her own words, in this courtroom, that she got  
15 the message, that she knows that you want me to  
16 come out to the property. Teresa Halbach tells  
17 B. Janda that she's going to be out there  
18 sometime after 2:00 p.m., that very day, on the  
19 31st of October.

20 This will be important for you in  
21 determining a timeline. Where was Teresa all  
22 that day; was this before or after she went to  
23 the Schmitz photo shoot and the Zipperer photo  
24 shoot. That's going to be uncontroverted.  
25 Absolutely, this is the last stop that she made

1 on the 31st of October.

2 Two days into this, folks, we're now on  
3 Monday, the 7th of November, and the first  
4 results come from the Wisconsin State Crime  
5 Laboratory. The first results find several  
6 things.

7 First of all, in the back cargo area of  
8 Teresa's SUV, they find that there's female  
9 blood. They find there is a lot of female blood  
10 in the back of Teresa's SUV. But they also  
11 found, interestingly, male blood, at least at  
12 that early stage with their early typing, they  
13 could find that it was male blood.

14 And interestingly and importantly that  
15 already on Monday, the 7th of November, there is  
16 male blood found in the victim's vehicle in at  
17 least six different locations. Six different  
18 places they find male blood. Mr. Wiegert,  
19 Mr. Fassbender, all of the investigators don't  
20 understand the significance of the male blood  
21 being in six different places. They do, however,  
22 understand the significance of a lot of female  
23 blood. And they suspect early on that something  
24 horrible has come to Teresa Halbach.

25 Also on Monday, a burn barrel was

1 discovered, not just any burn barrel. Again,  
2 here's a picture, an overview, a part of the  
3 aerial photograph of the Avery property itself.  
4 There is Steven Avery's trailer and located  
5 outside of Steven Avery's trailer was a burn  
6 barrel that was recovered.

7 Now, again, not just any burn barrel,  
8 but Steven Avery's burn barrel. And you will  
9 hear later in my opening and you will hear a lot  
10 of evidence about the trial, about what critical  
11 pieces of information were found from that burn  
12 barrel. But put it in perspective, on Monday,  
13 that was found.

14 I provide this slide just as another  
15 example for you of where that burn barrel was in  
16 relationship, not only to the proximity of Steven  
17 Avery's trailer, but the proximity to this red  
18 Dodge Caravan. You may also have guessed, this  
19 is the car that Steven Avery asked Teresa Halbach  
20 to come take a picture of. All right. So the  
21 proximity of the burn barrel to his front door  
22 and also to the Dodge Caravan will be important  
23 in the determination at the close of this case  
24 when you decide who was responsible for these  
25 crimes.



1                   The next day, three critical pieces of  
2                   evidence are found on Tuesday, the 8th. Now, we  
3                   talked about these more detailed searches. On  
4                   Tuesday, one of these more detailed searches  
5                   occurred in Mr. Avery's trailer.

6                   You are going to hear evidence that this  
7                   bookcase was pulled out, was jostled about. You  
8                   are going to hear evidence about this particular  
9                   binder having been pulled out of the bookcase.  
10                  And after the officers looked through it, how it  
11                  was slammed back in as the book case was actually  
12                  pulled out from the wall.

13                  And after jostling and after searching  
14                  it, after slamming things around and after  
15                  putting the bookcase back in its location, you  
16                  are going to hear this is what the officers saw.  
17                  They saw a Toyota vehicle key in the bedroom of  
18                  Mr. Avery. You are going to hear evidence that  
19                  it had obvious evidentiary value, that the  
20                  officers at that time stopped what they were  
21                  doing and Investigator Dan Kucharski of the  
22                  Calumet County Sheriff's Department seized or  
23                  took control of that key during that more  
24                  detailed search.

25                  More detailed searches were also

1 occurring at the same time of the entire Avery  
2 Salvage Yard, which included now officers,  
3 volunteer firefighters, going through all of the  
4 cars again; 4,000 searches occurred again, on  
5 Tuesday. But you are going to hear this time  
6 they weren't looking for a body, at this time  
7 they were looking for stuff. They were looking  
8 for evidence.

9 After the body wasn't found in their  
10 first search, they are going back and they are  
11 looking for items of obvious evidentiary value.  
12 You are going to hear testimony they found  
13 something of obvious evidentiary value; they  
14 found the victim, Teresa Halbach's, license  
15 plates crumpled up in a station wagon.

16 I just show you this slide to show you  
17 what the vehicle looked like, the station wagon  
18 that the license plates were found in. And also  
19 provide this aerial photograph to give you an  
20 idea of the vehicle that the license plates were  
21 found in.

22 Very quickly, I want to remind you of  
23 Steven Avery's trailer is down in the lower left  
24 hand corner; that the access road leading to  
25 Mr. Avery's trailer comes from the top of this

1 figure down towards the right. Teresa Halbach's  
2 vehicle is found in the first vehicle (sic) next  
3 to the access road on its way to Steven Avery's  
4 trailer. Again, the evidence is going to show,  
5 not by accident, the proximity to the defendant's  
6 roadway, the proximity to the defendant's  
7 trailer, all becoming important.

8 Now, I told you that there were three  
9 important discoveries on the 8th. And the third  
10 and perhaps the most important discovery that day  
11 is something that's being referred to as a burn  
12 area. Again, just to orient you, it's the same  
13 kind of picture that we have been looking at:  
14 Steven Avery's trailer; Steven Avery's garage.  
15 The Dodge Caravan, the van that Ms Halbach was  
16 taking pictures of, was located right there; and  
17 there's the burn area.

18 The proximity of this burn area to the  
19 garage is obvious; the proximity of this burn  
20 area to Mr. Avery's trailer itself is obvious.  
21 To provide you with another view of this burn  
22 area, again located -- you can see his trailer,  
23 you can see the garage on the right.

24 But, importantly, that burn area  
25 contained human remains. It contained obvious



1 bone fragments. Even to the untrained officers  
2 that stumbled upon this particular burn area,  
3 even when they called over the Crime Lab to  
4 process this particular location, it was obvious  
5 that there were human remains in this particular  
6 burn area.

7 Now, this next picture is particularly  
8 important because it was taken before any  
9 processing begins. There's the burn area that  
10 we're talking about. That's the burn area that  
11 contained the obvious human remains. You will  
12 see and you will hear from the officers who were  
13 at the scene, that this burn area, from the first  
14 night, was guarded, was guarded by Mr. Avery's  
15 German Shepherd. I believe his name was Bear.

16 But this particular German Shepherd, not  
17 of the friendly sort, did not allow law  
18 enforcement officers to get close to this burn  
19 area. Did not allow any of the canine help that  
20 was out there to get close to that area. And any  
21 time -- excuse me -- law enforcement even got  
22 close to the burn area, Bear made sure that they  
23 were shooed away.

24 But I think it's also important about  
25 this case, when we talk about proximity, there

1           isn't any question who exercises control over  
2           this burn area. And in the background, just --  
3           just see how close it is to that van that Teresa  
4           Halbach was asked to take a picture of.

5                     The next day, Wednesday, November 9th,  
6           was the first time that recovered bone fragments  
7           from that burn area are identified by an  
8           anthropologist. An anthropologist is a  
9           professional who looks at bones and can identify  
10          whether they are human, or that they are  
11          non-human, where they go. We'll talk about that  
12          a little bit later.

13                    But even though these fragments are  
14          small, even though they are burned almost beyond  
15          recognition, on Wednesday, the 9th, they  
16          determined that those were, in fact, adult female  
17          remains found right behind the defendant's  
18          garage.

19                    All right. This is the first image that  
20          is not a photograph that I'm showing you. This  
21          is computer generated. And we're going to hear  
22          from a man who created these images. His name is  
23          Tim Austin. He works for the State patrol, the  
24          State of Wisconsin, in scene reconstruction.

25                    And what Tim Austin will tell you is

1       that he was out at the scene -- and we'll talk  
2       about this a little bit later -- but he was out  
3       at the scene and took over 4100 measurements out  
4       at the scene. And after taking his own  
5       photographs and after taking over 4100 images --  
6       excuse me -- measurements, he was able to  
7       recreate some of these scenes for you, for the  
8       jury.

9               And these are created for the jury so  
10       that you can see things that the naked eye can't  
11       see; so that you can see things that photographs  
12       can't show; so that you can see relationships  
13       between some evidence and fixed objects or other  
14       evidence that's found. And so as you see this  
15       perspective you will see that you are up, you  
16       know, dozens of feet above the ground. And it's  
17       something, again, unless you are that tall, you  
18       are not going to be able to see this kind of  
19       location.

20              But this particular computer generated  
21       animation is important to embrace or to -- for a  
22       jury to look at in the case because the burn area  
23       is clearly visible. How close it is to  
24       Mr. Avery's garage; how close it is to the  
25       trailer; how close it is to the other area,



1        what's called the curtilage, that is the area  
2        that surrounds Mr. Avery's property, all becomes  
3        important.

4                All right. So these are -- And when  
5        something is not a picture, when it, in fact, was  
6        created through computer animation or computer  
7        generation, I will let you know that.

8                One of the bones that was recovered was  
9        a long bone. And I'm showing you this for a  
10       reason, in my opening statement, so that you  
11       understand what we're looking at here. That we  
12       aren't just looking at some bone in abstract.  
13       We're not just looking at some DNA profile.

14               It's Teresa Halbach's shinbone. All  
15       right. It's Karen Halbach's daughter's tibia.  
16       And attached to Teresa Halbach's tibia was some  
17       tissue. Now, despite Mr. Avery -- The evidence  
18       will show, that despite Mr. Avery's effort to  
19       completely obliterate all these bones, by  
20       burning, to incinerate these bones completely,  
21       this bone survived.

22               This tissue that was on the bone  
23       survived, which allowed a DNA match, which  
24       allowed the State of Wisconsin analyst, guess  
25       who, Sherry Culhane, when she performed an

1 analysis on that tissue, to match it with the  
2 blood found in the back of the SUV; with a soda  
3 can that is found in the front of the SUV; and  
4 with a standard.

5 Now, the standard is also called an  
6 exemplar. You are going to hear those two  
7 statements, but Teresa Halbach, before the 31st  
8 of October, had a Pap smear performed, a cervical  
9 swab that was performed. And thankfully for us,  
10 that was kept at Bellin, up in Green Bay. Well,  
11 Sherry, also -- Ms Culhane, also, was able to  
12 develop a DNA profile from the Pap smear.

13 We know that's Teresa. And from that  
14 exemplar, from that example, matches the tissue  
15 on the leg bone; matches the blood; matches the  
16 soda can. We can say with 100 percent certainty  
17 that those human remains are those of Teresa  
18 Halbach.

19 The first 11 days of this case become  
20 extremely important. And for just about five  
21 minutes here, I want to give you those 11 days  
22 in. And what you have just heard, that part of  
23 the investigation, you have only heard 11 days  
24 worth of investigation, which has gone on 15  
25 months now. But the first 11 days are important

1 and I want to just run through those for you.

2 Ms Halbach is killed on the 31st of  
3 October, at the Steven Avery salvage property,  
4 sometime after 2:45 p.m. You are going to hear  
5 from a gentleman by the name of Tom Pearce, who  
6 is Teresa Halbach's business partner, that she  
7 doesn't show up for work on the 1st or 2nd.

8 And on the 3rd, Teresa Halbach is  
9 reported missing to law enforcement authorities.  
10 That's when the missing persons investigation,  
11 from a law enforcement standpoint, begins. I  
12 think, if you will, as to the feelings of the  
13 Halbach family and friends and how worried they  
14 are even on the 3rd.

15 But on the 4th, you are going to hear  
16 from a witness named Ryan Hillegas who helped  
17 coordinate the citizen search efforts.

18 You are going to hear that there was  
19 something called cell tracking. We're going to  
20 hear a little bit about that. A cell phone  
21 actually is almost a transmitting device and it  
22 pings or beeps, if you will, off of cell towers  
23 all over the state, whenever you carry it in your  
24 pocket, whether it's on or not. You are going to  
25 hear evidence about attempts to find Teresa's



1 cell phone; if we find her cell phone, we can  
2 find Teresa.

3 We also looked at those early stages for  
4 whether or not she used any of her credit cards.  
5 Where is Teresa Halbach? We try to find that  
6 out.

7 You are going to hear that a gentleman  
8 by the name of Curt Drumm, a pilot in the  
9 Manitowoc area, volunteered his airplane and  
10 helped law enforcement fly over Mr. Zipperer's  
11 residence and Mr. Schmitz's residence and the  
12 Avery compound and any of the roads that may have  
13 led to and from there to try and find Teresa  
14 Halbach.

15 On the 5th, we know that Teresa's  
16 vehicle was found at the Avery salvage property.  
17 You will hear that search warrants were obtained.  
18 You will hear during the course of this case that  
19 a search warrant is nothing more than a piece of  
20 paper. It's a judicial authorization; a judge  
21 authorizes law enforcement officers to search the  
22 property, in private areas. And we got many,  
23 many search warrants in this case and searched  
24 for her body.

25 You have heard already, that on the 6th,

1 firearms are obtained or taken from Mr. Avery's  
2 bedroom; his garage is searched, at least the  
3 first search of the garage for those items of  
4 obvious evidentiary value. But remember, on that  
5 Sunday we don't have any results yet, from the  
6 Crime Lab. Those don't come until sometime on  
7 Monday, when the Crime Lab determines that both  
8 male and female blood is located in the SUV.

9 We search, for the first time, all of  
10 the junked vehicles, at least all of the trunks  
11 are searched.

12 And Mr. Avery's burn barrel is  
13 discovered and searched.

14 And other things will happen and you are  
15 going to hear from other officers that the  
16 surrounding areas, not just the 40 acres, but  
17 hundreds of acres of gravel pits and the like are  
18 being searched in these early days.

19 On Tuesday, perhaps the most important  
20 of all the days as far as discoveries go, those  
21 three critical discoveries are made: The Toyota  
22 key, the license plates, and the burn area behind  
23 the defendant's property.

24 On Wednesday, the 9th, there is an  
25 identification made of male blood in the victim's

1 vehicle. That blood matches the DNA profile of  
2 the defendant, Steven Avery. And bones are  
3 recovered and determined to be that of an adult  
4 female.

5 You will hear on the 10th, on Thursday,  
6 the burn area is further excavated by arson  
7 investigators and other Crime Lab and other types  
8 of officials but, interestingly, the defendant's  
9 DNA is now found on the key.

10 And, finally, on Friday, the 11th, the  
11 female blood that was found, the great pool, if  
12 you will, of female blood, in the cargo area, is  
13 now matched. It is determined to match the soda  
14 can -- the saliva from the diet Wild Cherry  
15 Pepsi, I believe, soda can in the front of  
16 Teresa's car. The blood is now presumed to be  
17 that of the victim, Teresa Halbach.

18 You have heard the term that they told  
19 me there would be no math, well, there is going  
20 to be some science. And here's where I have to  
21 at least give you an overview of what the science  
22 of this case is going to be.

23 The science, the blood part of the  
24 science, the DNA analysis and explanation of this  
25 case is going to come from this gentleman right



1 here, Norm Gahn. Mr. Gahn, you will learn by his  
2 examination, is quite knowledgeable in DNA and DNA  
3 from a prosecution standpoint. And in all  
4 honesty and in all candor, that's why he was  
5 added to the prosecution team, because this is  
6 such an important part of the case. The science  
7 becomes very, very important.

8 You are going to hear about a DNA  
9 analyst from the Wisconsin Crime Lab named Sherry  
10 Culhane. Again, Ms Culhane, almost unbelievably,  
11 is the very analyst that exonerates Mr. Steven  
12 Avery several years earlier. She's the same  
13 analyst that does the detailed DNA work on  
14 Mr. Avery's work with the Innocence Project and  
15 frees Mr. Avery from his incarceration.

16 Well, that same woman, Sherry Culhane,  
17 processes this vehicle. Because she's the unit  
18 head, because this is such an important case, she  
19 does the work herself. She does all of the  
20 analysis of all of the blood that's found in  
21 these cases.

22 You are going to hear from Ms Culhane,  
23 through the assistance of Mr. Gahn, what DNA is,  
24 that it is a genetic fingerprint, if you will.  
25 Provides an opportunity, as most of you may

1 already know, to take a sample and to take a  
2 unknown sample, something like blood that's found  
3 in the back of an SUV and to take a known DNA  
4 sample, since our DNA is all the same in all of  
5 our bodily fluids.

6 Our blood has the same DNA as our  
7 saliva, as our semen, as the skin cells, as our  
8 tissue; it's all the same DNA. So once you  
9 develop a profile, each of us all has different  
10 DNA; it's unique to each of us. And Mr. Gahn  
11 will explain all of that for you.

12 But with that as the background, Ms  
13 Culhane was able to establish all of the places  
14 in that SUV that had Teresa Halbach's DNA. You  
15 are going to learn that they found a large  
16 quantity of the blood and DNA in the cargo floor  
17 and the side panel. The back cargo door, you are  
18 going to hear that there were splatters, spatters  
19 of Teresa's blood in the back cargo door.

20 You are going to hear that on the rear  
21 tailgate there were droplets of Teresa's blood;  
22 her DNA is found on the door handle; and, also,  
23 as I have already alluded and you might expect,  
24 the saliva from the soda can, Ms Culhane will  
25 find DNA evidence.

1 I told you about male blood that was in  
2 the SUV. On Wednesday, the 9th of November,  
3 Steven Avery subjected to a very thorough medical  
4 examination, again, as result of a warrant, as a  
5 result of a judicial authorization to do that  
6 particular kind of examination. And what they  
7 found was a very, very deep cut to Mr. Avery's  
8 right middle finger but, importantly, on the  
9 outside of his right middle finger. And that's  
10 where the cut was.

11 This cut was actively bleeding on the  
12 31st of October. And I guess, thankfully, for  
13 the State. And as a jury, I hope at the  
14 conclusion of this case you will say thankfully  
15 for you. Because DNA analysis was then possible  
16 because of his actively bleeding, of his leaving  
17 his DNA behind, inside of Teresa's vehicle.

18 Ms Culhane will tell you that the  
19 defendant's blood was found in at least six  
20 places in Teresa Halbach's SUV including the rear  
21 passenger door, smeared or wiped on the rear  
22 passenger door. Okay. There's a front door;  
23 there's a back door; kind of like a four door  
24 car. It was in the backdoor and it's along the  
25 edge or along the metal of the rear passenger



1 door. That's Steven Avery's blood. That's how  
2 much blood he left on the side of the door.

3 We have heard about the defendant's  
4 blood on the ignition. That positively matched  
5 that of Steven Avery. As you think about this  
6 case and I will argue at the end of the case, but  
7 there isn't any secret and the defense  
8 understands this is as well, an actively bleeding  
9 middle right finger. And when you look at the --  
10 excuse me -- When you look at the smear, kind of  
11 visualize turning the ignition and how that can  
12 smear from the outside of the middle finger and  
13 leave that particular kind of DNA evidence.

14 Other places that the defendant bled  
15 inside of the victim's car included blood on her  
16 CD case in her front seat. Both front seats had  
17 droplets of Mr. Avery's blood on it. The rear  
18 tailgate, remember I told you there was a droplet  
19 of Teresa's blood; because Mr. Avery is actively  
20 bleeding, there is a droplet of his blood as  
21 well. And also on the front console floor, is  
22 kind of up in that particular area.

23 Sherry Culhane and Mr. Gahn are better  
24 able to explain all those for you, but it's  
25 important for you to know. Now, again, the

1           jigsaw puzzle, when you hear the evidence and  
2           when you have to decide who killed Teresa  
3           Halbach, this evidence points to one person.

4                     Now, Mr. Gahn and his questioning, and  
5           Ms Culhane is going to tell you, that DNA  
6           evidence, again, is not just from blood. It can  
7           be from skin cells which are left through  
8           perspiration, sweat, okay, saliva and sweat and  
9           all those other kinds of bodily fluids that we  
10          talked about. So when somebody's hands are  
11          sweating and you handle something, it's possible  
12          that you can leave your DNA on that thing that  
13          you handled.

14                    You heard a suggestion already in which  
15          there will be evidence in this case that the  
16          battery was disconnected on Ms Halbach's vehicle.  
17          We'll tell you, or at least we'll argue as to why  
18          that happened. But importantly, in reaching up  
19          underneath the hood, to open up Teresa Halbach's  
20          vehicle, Mr. Avery was kind enough to leave his  
21          DNA on the hood latch. Okay. That will come  
22          from Sherry Culhane as well.

23                    In handling Ms Halbach's key that starts  
24          the ignition and putting it into his bedroom,  
25          Mr. Avery was kind enough to leave his DNA on

1           that portion of the Toyota key that was found.

2           So that's part of the science.

3                     Other science is going to include things  
4           like teeth, teeth that were recovered from the  
5           burn area. This part of the science, by the way,  
6           will be handled by Mr. Fallon, and other expert  
7           witnesses, but most importantly, through somebody  
8           called a forensic odontologist.

9                     That's a big word, kind of scared me  
10          when I first heard it. Gentleman's name is  
11          Dr. Donald Simley. Mr. Simley is a odontologist.  
12          From a forensic standpoint, it's kind of a  
13          dentist who matches stuff up.

14                    So Mr -- or Dr. Simley, the dentist, the  
15          odontologist, will show you a -- what's called a  
16          panorex x-ray. We went to Teresa's dentist. We  
17          got her x-rays from when she had work being done  
18          and Dr. Simley will show you tooth number 31,  
19          which is the second last tooth in the bottom left  
20          jaw.

21                    Dr. Simley will also tell you that  
22          x-rays were taken of teeth that were found from  
23          the burn area. He will show you tooth number 31  
24          that was actually recovered from the burn area  
25          and will allow the jury to make their own



1           comparisons.

2                   We talked about an anthropologist. Our  
3 anthropologist is Dr. Leslie Eisenberg.  
4 Dr. Eisenberg will tell you about her  
5 credentials, about how she does this -- this  
6 whole kind of work. And although, unfortunately,  
7 the bones that she had to deal with and, again,  
8 we aren't talking about a full skeleton that was  
9 found in that -- that bone (sic) pit.

10                   If we did, by the way, we may not be  
11 including a charge against Mr. Avery for  
12 mutilation of a corpse. But mutilation of this  
13 little girl -- excuse me -- not this little girl,  
14 but this young woman, absolutely occurred.  
15 Because this is what's left, small tiny pieces of  
16 bone fragment.

17                   And when you talk about a jigsaw puzzle,  
18 when you talk about trying to put all of this  
19 together; it's a very, very difficult process.  
20 And when I asked -- And the testimony, actually,  
21 of Dr. Eisenberg is going to allude to this  
22 jigsaw puzzle kind of analogy and we don't even  
23 have a box or a cover to go on. Luckily for us  
24 and luckily for you, Leslie Eisenberg is your  
25 jigsaw puzzle covered box.

1                   In other words, Dr. Eisenberg knows  
2                   where everyone of these bones goes.  
3                   Dr. Eisenberg will identify all of these bone  
4                   fragments. She'll identify, from a female  
5                   skeleton and from examples that are used, all of  
6                   the different parts of Teresa that were found.  
7                   Okay. And it will help you as far as  
8                   identification processes go, as to what parts of  
9                   Teresa's bones and what parts of the body were  
10                  actually recovered in this case.

11                 Now, not all evidence is of equal  
12                 weight. And two really important pieces of bone  
13                 were found. And those were two pieces of what  
14                 are called the cranium, the skull, that were  
15                 burned very, very badly but were identified as  
16                 such by Dr. Eisenberg.

17                 The parts of the skull, this picture  
18                 that you are looking at is actually a part of the  
19                 skull now. This brilliant woman is going to tell  
20                 you that this isn't just part of the skull, but  
21                 this is a little piece of the skull that's just  
22                 on top of or over somebody's left ear.

23                 How do you tell that kind of thing  
24                 looking at a bone like that, but that's what an  
25                 anthropologist apparently -- apparently does.

1 And that's why she's an expert, and we're not, in  
2 this area. But, importantly, the damage, the  
3 defect that's caused, the evidence is going to  
4 show that you are looking at the inside, from the  
5 inside out, the inside of Teresa's skull out;  
6 that the circular or half circle -- because this  
7 isn't the full piece, this is half of the  
8 important piece here -- is extremely important.

9 The defect, the damage here, the  
10 testimony will be, is caused by a high velocity  
11 projectile. We take this same bone fragment and  
12 you are going to hear evidence about other  
13 experts and it allows some other analysis of this  
14 particular piece of bone, this particular piece  
15 of cranium.

16 You are going to hear from a gentleman  
17 by the name of Ken Olsen from the Crime Lab; he  
18 is an expert in trace evidence, the CSI kind of  
19 stuff, but the trace from an elemental  
20 standpoint. When you x-ray something, the  
21 evidence is going to show bone and other kinds of  
22 vascular or veins and things show up after you  
23 x-ray even a burned piece of bone.

24 But what also shows up are things that  
25 don't burn up. All right. When Mr. Olsen



1       testifies, he's going to point to these little  
2       bright dots. See those okay from there? These  
3       little bright dots that are right on the lip of  
4       the cranial defect.

5               Those little bright dots he's going to  
6       say he examined. He recovered those and he did  
7       his analysis on them, elemental analysis, and  
8       found that they are lead. These little dots are  
9       lead, what's called lead spray. You are going to  
10      hear testimony that there's only one thing, only  
11      one item that can travel fast enough, as a  
12      projectile, to cause this kind of a defect and  
13      also leave lead. And as you might predict,  
14      that's a bullet. All right. Lead spray is left  
15      by bullets.

16             Dr. Eisenberg, then, with the assistance  
17      of a gentleman by the name of Jeffrey Jentzen, is  
18      the Milwaukee County Medical Examiner.

19      Dr. Jentzen, has -- and you will hear he has a  
20      great deal of experience nationally, a national  
21      expert in things like gunshot wounds.

22             Dr. Jentzen and Dr. Eisenberg will  
23      render two expert opinions: First of all, that  
24      the left parietal region, the region just above  
25      the left ear, the thing that you just saw, the

1 combination of the projectile and the lead spray,  
2 leads these two experts -- and especially the  
3 pathologist -- especially Dr. Jentzen, who will  
4 tell you that that's an entrance wound, just  
5 above the left ear of Teresa Halbach.

6 They will also find a second and we will  
7 show you a second entrance wound, similar kind of  
8 defect that's found in a recovered bone that is  
9 on what's called the occipital region of the  
10 skull. That's to the back and just to the left  
11 side of the back of the skull and that was a  
12 second entrance wound.

13 Finally, their opinion, when they put  
14 together -- when you ask of the State, what was  
15 the cause of death, what was the mechanism of  
16 death, at the conclusion of this case I will be  
17 able to tell you, this was a homicide and it  
18 included at least two gunshot wounds to the head  
19 of 25 year old Teresa Halbach.

20 I'm almost done so hang on. Remember  
21 this burn barrel, remember found outside of  
22 Mr. Avery's trailer, well, this burn barrel, as I  
23 told you, was examined. And although Mr. Avery,  
24 the evidence will show you, attempted to burn up  
25 all of the stuff that was in the burn barrel, it

1           didn't burn. It didn't burn up.

2                   And the things that didn't burn up were  
3           electronic components. All of these electronic  
4           components were found in Mr. Avery's burn barrel.  
5           This is other evidence. This is more evidence,  
6           not just the science, not just the DNA, not just  
7           the blood, but at the conclusion of the case will  
8           be other evidence that will be able to assist you  
9           in pointing to who killed Teresa Halbach.

10                   Of those electronic components, included  
11           Teresa's cell phone. You will hear evidence that  
12           Teresa had a Motorola V3 RAZR cell phone. And  
13           when we look at and when the experts show you  
14           those electronic components that are found within  
15           the burn barrel, you will recognize or some of  
16           you might, the Motorola sign.

17                   But for those of you that don't, we're  
18           going to have a gentleman by the name of  
19           Mr. Thomas from the FBI come here from Virginia  
20           and he's going to show you all those components  
21           and he's going to show you what they looked like  
22           when they were recovered from Mr. Avery's burn  
23           barrel and what they used to look like on a  
24           Motorola V3 RAZR cell phone. All right. So you  
25           are going to be able to match up the components



1       itself and what it used to look like before Mr.  
2       Avery's attempts to destroy that evidence as  
3       well.

4               You are going to hear about a digital  
5       camera that Teresa Halbach had; digital camera  
6       that she used to take pictures was a Canon A310,  
7       PowerShot A310. You are going to hear all kinds  
8       of interesting evidence about how a digital  
9       camera -- and some of you may know this and  
10      certainly our media friends know this. But when  
11      you take a picture with a digital camera, that  
12      photo, that image that you take with a digital  
13      camera leaves a signature. It leaves an  
14      electronic imprint on the image itself.

15             And so, if you put that picture on a  
16      laptop computer or your home computer and you  
17      take your little mouse and put what's called the  
18      cursor, the little arrow thing, over the picture  
19      itself, it gives you an incredible amount of  
20      information. Gives you the date that that  
21      picture was taken. It tells you things about the  
22      picture itself, including what kind of camera was  
23      used.

24             And you are going to learn and you are  
25      going to see at least six different pictures that

1 were taken at Steven Avery's property by Teresa  
2 Halbach. And all six of those include that  
3 little imprint, include that signature, will tell  
4 you conclusively that Teresa uses the Canon  
5 PowerShot A310. All right.

6 We'll have these even more blown up for  
7 you, but that says PowerShot A310. There isn't  
8 going to be any question at all about whose  
9 camera it was that Mr. Avery burned in his burn  
10 barrel on the 31st of October.

11 You are going to hear about those other  
12 electronic components, by the way. I don't know  
13 if you use a palm pilot or a PDA, a personal data  
14 assistant. Teresa had one of those. That was  
15 also burned up and found in that burn barrel with  
16 some other information.

17 But when on the topic of what other  
18 evidence, what additional evidence, we're not  
19 done there folks. All right. We have other  
20 evidence that we have developed in the last 15  
21 months. You are going to learn that in  
22 Mr. Avery's garage, after shooting the bullets  
23 into 25 year old Teresa Halbach, they ejected  
24 what are called shell casings.

25 Those are the little brass casings that

1       come out of a gun after you shoot the gun. Well,  
2       it's possible for experts, for toolmark experts  
3       from the Crime Lab to match up those shell  
4       casings with a specific gun. And they will, in  
5       fact, match that .22 caliber rifle that's hanging  
6       over Mr. Avery's bed.

7               Now, March 1st and 2nd, 2 bullets were  
8       found, also, in Mr. Avery's garage. Through a  
9       more detailed search, you will find out why that  
10      happened. Through a more detailed search of the  
11      garage, two bullet fragments were found in  
12      Avery's garage. One of those bullet fragments,  
13      after going through Teresa Halbach, included  
14      Teresa's DNA.

15             And so as a matter, through Mr. Gahn and  
16      through his experts, you will learn that Teresa  
17      helped you too, that she left behind some  
18      evidence for you to consider in this case.  
19      Teresa left behind her DNA for you to consider on  
20      one of the bullets that's found in the defendant,  
21      Mr. Avery's, garage.

22             You will hear about things like phone  
23      calls. You'll hear about how phone calls can't  
24      be changed in the records and we can provide a  
25      timeline as to when certain things happened; when



1 Mr. Avery called for Teresa; when he called her  
2 two times before she ever got there; and when he  
3 places a -- what we're going to be called an  
4 alibi call, two hours after she's already at the  
5 property. You are going to hear about all those  
6 kinds of phone calls.

7 And as I mentioned, at least briefly,  
8 before other analysis of bone and tissue, other  
9 things to point to, if in fact the State even  
10 question whose bones and whose tissue it is  
11 behind Mr. Avery's property.

12 Lastly, I just want to remind you of the  
13 kinds of exhibits that you are going to hear in  
14 this case. You are going to see items that were  
15 seized, stuff that was seized from the scene,  
16 from Mr. Avery's property. You are going to get  
17 photographs from out at the scene, but you are  
18 also going to see photographs after the evidence  
19 was already obtained so that you have a more  
20 pristine or a better view of some of this  
21 evidence.

22 You are going to look at documents and  
23 records. You are going to hear from experts.  
24 And they will provide some written expert reports  
25 and also summary and demonstrative exhibits.

1                   Just a little bit on summary exhibits.  
2           When there's lots of evidence like documents;  
3           lots of things in documents, phone records, you  
4           know, things like this; when it's hard for you to  
5           digest, we'll try to create a one or a two page  
6           summary of all that information to help the jury  
7           and find out exactly what all of it means.

8                   And, finally, audio and videotaped kinds  
9           of evidence, you would expect to find those kinds  
10          of things.

11                  Remember I told you before, just talking  
12          about different kinds of photos, about those  
13          pictures that Teresa took, those six different  
14          pictures; this is one of them. It was taken on  
15          June 20th, by Teresa Halbach.

16                  I use this as the example because --  
17          because I wanted to. But it shows very clearly  
18          Mr. Avery's trailer, his garage. It's clear  
19          through *Auto Trader Magazine*, when Mr. Avery, in  
20          June of this year tried to sell this particular  
21          trailer, Teresa Halbach took this picture, again,  
22          with a Canon PowerShot A310. You will hear all  
23          those kind of things.

24                  But the reason, at least for this part  
25          of the presentation, I'm showing you this, is it

1 tells you a difference between a scene photo and  
2 things that I mentioned at least briefly before;  
3 computer generated scene models. Again, this  
4 isn't a picture. This is a -- provided by  
5 Mr. Austin, but you will note that it's something  
6 that you couldn't see with your eye.

7 Again, usually there's elevations that  
8 are involved. These kinds of models are, by the  
9 way, within an inch, you will hear, accurate.  
10 Every measurement is within an inch. So this  
11 isn't some blackboard that was taken down and you  
12 just do the best you can.

13 And these are 4100 measurements that  
14 make everything geometrically perfect,  
15 geometrically accurate to within an inch. But  
16 these kinds of models should assist you. Since  
17 it's the middle of February, we're not going to  
18 be traipsing off to the Avery property.

19 These kinds of things may help you in  
20 understanding better and getting a better tour of  
21 the Avery property. But just this model, as an  
22 example, shows you how close Mr. Avery's burn  
23 barrel is to his front door; how close it is to  
24 the vehicle that Ms Halbach took pictures of.  
25 And even things like after taking the pictures,



1 the path that Teresa Halbach took as she walked  
2 towards Mr. Avery's property.

3 For those of you big picture people, not  
4 detail oriented people, you all were asked that  
5 question, we'll have aerial photographs for you.  
6 Again, when we look at all of the surrounding  
7 gravel pits on at least three sides of the Avery  
8 property and how that may fit into some of those  
9 kind of things.

10 We have interior photos as well. Photos  
11 of the inside of Mr. Avery's garage. Now, you  
12 will note a couple things about this photo.  
13 First of all, you will note how cluttered, to say  
14 the least, that it is. And this might help you  
15 understand how difficult it was for officers, not  
16 knowing what they are looking for, in November,  
17 to kind of go through this garage, not knowing  
18 that the shooting -- not knowing that the  
19 shooting happened in this garage. The officers  
20 didn't really know what they were looking for.

21 But in March, when this picture was  
22 taken, and they know what they are looking for  
23 and they know where to look in the garage, these  
24 kind of pictures should be able to help you. But  
25 Mr. Austin also will help you in giving you a

1 geometric perspective, ripping the roof off, if  
2 you will, of the garage and show you models of  
3 the insides of the garage.

4 By the way, just so there isn't any  
5 question why I'm showing you this exhibit, one of  
6 the bullets, number 9, which was found in the  
7 crack of a -- the cement, that was not cleaned up  
8 in this case. And tent number 23A, underneath  
9 what was a air compressor, the evidence is going  
10 to show, is the bullet that Teresa left her DNA  
11 for you. Underneath that air compressor is where  
12 they recovered that second bullet.

13 Other interior photos, you are going to  
14 see photos of the interior of Mr. Avery's  
15 bedroom, the gun rack that hangs over Mr. Avery's  
16 bed with two firearms, one was a .50 caliber  
17 muzzleloader and on top of that was a .22 caliber  
18 automatic -- semi-automatic rifle.

19 But Mr. Austin, again, provides you  
20 with, ripping off the roof, if you will, interior  
21 scene models, where you are going to be able to  
22 look at the living room of Mr. Avery and his  
23 spare bedroom and his bathroom and Mr. Avery's  
24 master bedroom, be able to kind of walk around  
25 within that space. So it will help you

1 understand where some of these evidence -- or  
2 some of this evidence was found.

3 Finally, the kinds of witnesses that you  
4 are going to hear from, include citizens and law  
5 enforcement officers and records kinds of people;  
6 although, most of those will be agreed to between  
7 Mr. Strang and us, as well as expert witnesses.

8 You will hear from various kinds of  
9 citizens like Bobby Dassey, who is one of the  
10 sons of Barb Janda, who you will hear testimony  
11 about, that at about 2:45 on the 31st of October,  
12 Bobby saw a young girl drive up to the Avery  
13 property.

14 Bobby Dassey saw this young girl, later  
15 identified as Teresa Halbach, get out of her  
16 teal, or blue, or green colored SUV and actually  
17 take pictures of the van that her mom had for  
18 sale. Bobby Dassey is going to tell you, that  
19 after looking out the window and after seeing  
20 Teresa Halbach take these photographs of this  
21 vehicle and finish her job, that Teresa walked  
22 towards Steven Avery's trailer.

23 You will hear evidence that she was  
24 walking towards the main entrance of Steven  
25 Avery's trailer and that Bobby thereafter took a



1 shower and left to go deer hunting, bow hunting,  
2 about 15 minutes later. You are going to hear  
3 from Bobby that when he left 15 minutes later,  
4 Teresa's SUV was there, but Teresa was nowhere to  
5 be found.

6 You are going to hear that Bobby Dassey  
7 was the last person, the last citizen that will  
8 have seen Teresa Halbach alive. You are going to  
9 hear from other citizens like that, other people  
10 that will help place this case into context for  
11 us.

12 Juries are triers of fact. You don't  
13 decide what the law is, the judge does that. But  
14 you decide what the facts of the case are. And  
15 the facts in this case aren't just going to point  
16 to who did it; it's not just a who done it case.  
17 It's a what happened and where it happened and  
18 when it happened.

19 But we're also going to provide you  
20 evidence, not just that Steven Avery did it, but  
21 to the exclusion of other people as well. In  
22 other words, positive evidence about who done  
23 know it, but also negative evidence of why that  
24 necessarily excludes others. And so you get to  
25 find those facts and at the end of this case, you

1 will search for the truth. You are not to search  
2 for doubt, you are to search for the truth.

3 I told you when you started this case  
4 and when this opening statement started, that  
5 this may, in fact, be the most important decision  
6 that you will ever -- going to make.

7 That leaves us, then, with the end. I'm  
8 going to remind you through this case, I'm not  
9 going to apologize about it, but this is Teresa  
10 Halbach. I'm not going to apologize about the  
11 fact that this is not a DNA profile number. This  
12 isn't a box of recovered bones, but as I have  
13 mentioned before, remembering the humanity of  
14 Teresa Halbach. Remembering who she is, what she  
15 meant to these people, is an important part of  
16 this process.

17 Ultimately, this process includes  
18 assigning accountability. It will require you to  
19 assign responsibility for the murder and  
20 mutilation of an innocent 25 year old young lady.  
21 I'm confident, members of the jury, that after  
22 the conclusion of this, what could in fact be a  
23 six week trial, that you are going to agree with  
24 me. You are going to agree with the State that  
25 we have met our burden, that is, beyond a

1 reasonable doubt. I will ask at the conclusion  
2 of this case, that you return verdicts of guilty.  
3 Thank you. Thank you, Judge.

4 THE COURT: Thank you, Mr. Kratz. Members  
5 of the jury, it's quarter to 12. It's a little  
6 earlier than we normally take our lunch break, but I  
7 don't believe there is time enough to get started  
8 with anything else before lunch.

9 During the course of the trial the Court  
10 will attempt to give you a break every hour and a  
11 half or so, because I realize that your attention  
12 is required and sitting for much longer than that  
13 can impair your attention.

14 I do want to remind you at this time, as  
15 I will periodically throughout the trial, that  
16 you are not to begin your deliberations and  
17 discussion of the case until all of the evidence  
18 is presented and I instruct you on law at the  
19 conclusion of the case.

20 Do not discuss the case among  
21 yourselves, including the opening statement given  
22 today, or with anyone one else, until you begin  
23 your final deliberations in the jury room. We'll  
24 take our lunch break now and resume at 1:00.

25 (Jury not present.)



1 THE COURT: You may be seated. Counsel, in  
2 terms of the schedule for this afternoon, is the  
3 State going to have some evidence to present after  
4 the opening statement?

5 ATTORNEY KRATZ: We will, Judge, we'll have  
6 as many witnesses as the Court wants to proceed with  
7 this afternoon.

8 THE COURT: All right. We'll see you back  
9 at 1:00.

10 ATTORNEY STRANG: I have just one quick --

11 THE COURT: Go ahead.

12 ATTORNEY STRANG: -- matter if I might.

13 I decided against interrupting  
14 Mr. Kratz's opening statement because I thought  
15 this could wait, honestly, and I don't like to  
16 interrupt someone's opening. But probably in the  
17 first 20 minutes of his opening, Mr. Kratz  
18 explained to the jurors that the presumption of  
19 innocence persists only until that moment when  
20 the evidence overcomes it and proves guilt,  
21 beyond a reasonable doubt.

22 I understand -- I understand the  
23 argument. I understand what was meant, no ill  
24 intent was meant, but that's enough of a  
25 variation from the actual instruction that the

1 presumption of innocence attends the defendant  
2 until after closing arguments and deliberations  
3 begin, that I simply would ask the Court to  
4 repeat part of that presumption of innocence  
5 instruction this afternoon, before I start.

6 We don't have to make a big deal out of  
7 it; I just thought an abbreviated reminder might  
8 help. I also noted in the State's Power Point  
9 slide that explained the element of false  
10 imprisonment that the language, during her  
11 lifetime, was omitted.

12 That's, I think, the kind of thing that  
13 the Court already has covered and can cover  
14 again, but it might be a good idea, and this  
15 covers me too, for the Court simply to remind the  
16 jury that all legal instructions come from the  
17 Court in the end.

18 THE COURT: All right. I did -- I do  
19 recall the statement regarding the presumption of  
20 innocence that you referred to. And I do agree that  
21 the precise extemporaneous statement for Mr. Kratz  
22 is not technically correct. I'm going to grant your  
23 request and repeat the presumption of innocence  
24 instruction before you give your opening.

25 The other item about during the victim's

1 lifetime, I think I covered in the initial  
2 instructions, again, and I'm confident that six  
3 weeks from now the jury will have forgotten any  
4 subtle distinction that may have taken place in  
5 the opening. But I will repeat the presumption  
6 of innocence instruction without giving any  
7 specific reason why --

8 ATTORNEY STRANG: No.

9 THE COURT: -- because I doubt that the  
10 jury caught the significance of it, but it was  
11 technically incorrect.

12 ATTORNEY STRANG: Right. And it was  
13 unintended and there doesn't have to be a big deal  
14 made about this.

15 THE COURT: All right. Anything else  
16 before we break?

17 ATTORNEY KRATZ: No, that's fine, Judge,  
18 thank you.

19 (Noon recess taken.)

20 THE COURT: Members of the jury, a question  
21 came up during break concerning the definition of  
22 presumption of innocence, so I'm going to read that  
23 excerpt to you again at this time, from the opening  
24 instructions I gave you earlier. Then we'll hear  
25 the opening statement from the defense.



1 Defendants are not required to prove  
2 their innocence. The law presumes every person  
3 charged with the commission of an offense to be  
4 innocent. This presumption requires a finding of  
5 not guilty unless in your deliberations you find  
6 it is overcome by evidence which satisfies you,  
7 beyond a reasonable doubt, that the defendant is  
8 guilty. Mr. Strang, at this time you may begin.

9 ATTORNEY STRANG: Thank you, your Honor.  
10 Good afternoon. This summer it will be 22 years, 22  
11 years since a woman running on the beach in  
12 Manitowoc was raped and beaten nearly to death. The  
13 Manitowoc County Sheriff's Department investigated  
14 those awful crimes and they charged Steven Avery  
15 with rape and attempted murder on that Manitowoc  
16 beach, 22 summers ago.

17 He said consistently that he was  
18 innocent, that he had not done it. No one  
19 believed him, no one but his own family believed  
20 him.

21 And as that case was making its way  
22 through the Manitowoc County Circuit Court, just  
23 one county over, Teresa Marie Halbach was five  
24 and was starting kindergarten. Somewhere else,  
25 somewhere we don't know, a man named Gregory

1 Allen, presumably, was laughing and planning his  
2 next violent rape.

3 Eleven years later, in 1996, Steven  
4 Avery was trying, still, to make people  
5 understand that he was innocent. DNA testing was  
6 in its infancy. It was beginning to move into  
7 courtrooms, out of scientific laboratories. But  
8 we have come a long way, just a few years since  
9 1996, and it was not as advanced as it is today.

10 But in 1996, Steven Avery took a chance  
11 and had blood drawn, a little vial of blood. It  
12 was sent off, through the help of his lawyers,  
13 for early DNA testing. It couldn't clear him  
14 entirely. It helped, but it did not conclusively  
15 prove Steven Avery's innocence of the attempted  
16 murder and rape on the Manitowoc beach.

17 And when the tests failed to prove him  
18 entirely innocent, that blood was sent back, in a  
19 box sealed with evidence tape, to the Manitowoc  
20 County Clerk of Court. And there, in 1996, that  
21 blood vial, sealed in the box with evidence tape,  
22 took up residence in the now 11 year old file of  
23 the 1985 case; in a box, in the open, in the  
24 Manitowoc County Clerk of Court's Office. And  
25 there it sat.

1                   And in 1996, here, just a few miles  
2                   north of here, Teresa Marie Halbach was learning  
3                   to drive at age 16, I assume. And the irony --

4                   Could you hear me before? Can you hear  
5                   me now?

6                   THE COURT: We can hear you better now.

7                   ATTORNEY STRANG: All right. Is it the  
8                   Verizon guy who says that?

9                   Teresa was learning to drive, I assume,  
10                  at age 16. And the irony -- the irony is that  
11                  the blood vial in the Clerk's Office probably is  
12                  what ends up in her car, eventually.

13                 And time moves forward, though, to 2002.  
14                 Science also has moved forward. DNA testing has  
15                 improved, and a new effort is made to exonerate  
16                 Steven Avery.

17                 Now, the blood in the vial, in the box,  
18                 under the evidence tape, in the Clerk's Office,  
19                 is not, you will learn, what is used for the 2002  
20                 and 2003 DNA testing. But, some materials from  
21                 that box, that file, the overall file from the  
22                 1985 case, some are sent to the Wisconsin State  
23                 Crime Laboratory in Madison, to Sherry Culhane,  
24                 to whom Mr. Kratz introduced you.

25                 And the person from the Manitowoc County



1 Sheriff's Department involved, low these many  
2 years later, the department was, but a person  
3 from the Manitowoc County Sheriff's Department  
4 who documented the things that were sent from  
5 that old court file to the Crime Laboratory and,  
6 therefore, presumably looked at the box and  
7 assisted in deciding what to send. That person  
8 was, by that time, a lieutenant -- or a  
9 detective, now a lieutenant, named James Lenk.

10 Now, Detective Lenk was with the  
11 Manitowoc County Sheriff's Department, had his  
12 office in the Sheriff's Department that adjoins,  
13 or is connected by a small courtyard, to the  
14 Manitowoc County Circuit Court and the Clerk's  
15 Office, by a small courtyard to the south of the  
16 courthouse. He was, as I say, a detective with  
17 the Sheriff's Department. Today he is the  
18 lieutenant of the detectives and leads the  
19 Detective Unit.

20 He documented, in 2002, what was sent to  
21 the State Crime Laboratory from that file. 2002  
22 is the year that Teresa Halbach graduated from  
23 the University of Wisconsin at Green Bay and came  
24 home a short distance back, here to Calumet  
25 County, to start off a promising career.

1                   In 2003, nearly a year after the  
2                   necessary DNA samples were sent, the Wisconsin  
3                   State Crime Laboratory was able to establish that  
4                   Steven Avery did not rape and beat the woman on  
5                   the Manitowoc beach, as he had been saying all  
6                   along. And because of the advance of science,  
7                   the Crime Lab was better -- was able to do better  
8                   than that. It was able to establish that Gregory  
9                   Allen did.

10                  Now, unfortunately, in the time that  
11                  passed, Mr. Allen had raped violently, again,  
12                  because he had his liberty while that man did his  
13                  time. But in the fall of 2003, as the weather  
14                  was cooling, the State of Wisconsin at long last  
15                  joined Steven Avery in a motion to set aside his  
16                  conviction, and an innocent man also went home.

17                  Home for Steven Avery, home is the  
18                  salvage yard of which you have seen, now, many  
19                  glorious pictures, from up high, from down low,  
20                  from angles all over. The pictures are a good  
21                  deal more glorious looking than the salvage yard  
22                  itself, but this was home. It's the only home  
23                  that would take him back after this time.

24                  Allen Avery, Steven's father, back there  
25                  in the working shirt, just as you might expect;

1 Allen Avery started that business nearly 40 years  
2 ago on the 40 acres that he scrimped to buy. He  
3 raised sons and a daughter. And they didn't  
4 wander far from the business.

5 Chuck and Earl joined it, Barb works  
6 elsewhere, works a factory job, but lives on the  
7 property. And this is the sort of business where  
8 the family, as you saw, shares the perimeter of  
9 this property with the 4,000 rusting, decaying  
10 cars that are the refuse, the wreckage of other  
11 people's lives.

12 This is not a glamorous business, but it  
13 is a necessary business. It is a good business.  
14 And, yes, as you will learn, you have got to get  
15 your hands dirty if you're going to be in the  
16 salvage business. Not just dirty, you get your  
17 hands bloody, because you are working with  
18 rusted, jagged metal disassembling cars. And the  
19 dirt that grinds into your palms and that you  
20 find under your fingernails doesn't wash off at  
21 night.

22 But this was his family's business and  
23 this was home. And he rejoined his brother's,  
24 Chuck and Earl; and his father, Allen; his  
25 mother, Delores, on the family's property and at



1 the business. He became, again, one in the Avery  
2 clan, one man in the Avery clan. And tried to  
3 resume some normalcy of life, sharing the  
4 perimeter of that salvage yard, not in a pretty  
5 house in town, on a nice stone foundation, but in  
6 a trailer home, down from his sister's trailer  
7 home. Both of them down from the doublewide that  
8 mom and dad have, and Chuck's trailer toward the  
9 back, on the path toward the crusher.

10 And it is, although not glamorous, a  
11 worthwhile business and it's work with its own  
12 dignity. What would we do, if we didn't have the  
13 salvage yards in which to find spare parts. I  
14 guess we would be reliant entirely on the big  
15 corporations that make the cars, to continue to  
16 make spare parts for them and sell them at such  
17 prices they might see fit.

18 So it would be pretty tough without the  
19 Allen Averys and the Steven Averys of the world.  
20 It would be pretty tough for the guy who is  
21 restoring the 1968 Pontiac GTO hard top, in his  
22 garage, to do that economically. It would be  
23 pretty tough for the guy working on a 1965  
24 Mustang convertible, in his spare time, to do  
25 that.

1                   Maybe more importantly, it would be  
2                   pretty tough for the woman who's got young kids  
3                   to feed, and a job to hold down, and medical  
4                   bills, and she just has to get another  
5                   50,000 miles out of that 1988 Oldsmobile. And  
6                   for these people, maybe for you, for many of us,  
7                   it's a good thing that that young woman's father,  
8                   or brother, or maybe she, can go to the salvage  
9                   yard and keep the 1988 Oldsmobile running a  
10                  little while longer.

11                 Now, in 2003, when Steven went home,  
12                 Teresa Halbach also was home. Her photography  
13                 business was flourishing and things were going  
14                 reasonably well. In 2004, Steven Avery filed a  
15                 lawsuit seeking some recompense for the hole in  
16                 his life, the time he had spent as an innocent  
17                 man, for the crimes that Gregory Allen committed.

18                 This was a serious lawsuit. It was in  
19                 federal court, down in Milwaukee, and there was  
20                 no question but that a Manitowoc County Sheriff's  
21                 Department and, in the end, the court system, had  
22                 gotten the wrong guy.

23                 And as that lawsuit crept forward, as  
24                 lawsuits do, we came to October 2005. In October  
25                 2005, about the middle part of the month, James

1 Lenk and another ranking officer of the Manitowoc  
2 County Sheriff's Department, Sergeant Andrew  
3 Colborn, Mr. Lenk and Mr. Colborn both were  
4 pulled into the lawsuit, not as defendants or  
5 parties to the lawsuit, but as witnesses,  
6 witnesses who had their depositions taken in the  
7 middle of October, 2005.

8 Now, a deposition, typically in a civil  
9 lawsuit, is an event where you get a subpoena as  
10 a witness; you come normally to a lawyer's  
11 office, the conference room, the library, the  
12 lawyer's office; lawyers from both or all sides  
13 are there.

14 A court reporter is there; these days  
15 often a videographer as well. And the court  
16 reporter swears the witness under oath, the  
17 lawyers ask questions of the witness under oath  
18 and they are recorded, much as Mrs. Tesheneck is  
19 recording what we're saying here. There's no  
20 judge; it happens, as I say, typically in a  
21 lawyer's office.

22 And these two men, Lenk and Colborn,  
23 were witnesses. They were witnesses about their  
24 own conduct. Neither had been with the Manitowoc  
25 County Sheriff's Department in 1985, but an event



1 in 1995 or 1996 came up in that lawsuit. And as  
2 to that event, both of them were witnesses being  
3 questioned about their own activity and conduct  
4 with respect to Mr. Avery's imprisonment.

5 By the end of that month, unfortunately,  
6 those depositions would begin to matter. And  
7 indeed, from the time it was filed in 2004, you  
8 will learn, the lawsuit itself mattered. This  
9 sort of lawsuit, or the public cry of the  
10 innocent man wrongly convicted and imprisoned has  
11 to be, as you will see here I think, it has to  
12 be, as you get into the heads of law enforcement  
13 and begin to understand the process of law  
14 enforcement, this kind of thing has to be a  
15 nightmare for every good law enforcement officer.

16 These folks do not want to put innocent  
17 people in prison. They want to put guilty people  
18 in prison. And when they get it wrong, when the  
19 whole system gets it wrong, there understandably  
20 are feelings of shame, of embarrassment, anger,  
21 humiliation, conflicting feelings about this.

22 This is a good cops worst nightmare,  
23 made all the more worse by the fact that Gregory  
24 Allen, free, thanks to Steven Avery being  
25 convicted instead, Gregory Allen went on to rape

1           and beat again.

2                   This lawsuit kindled real difficult  
3           emotions. And the focal point of those emotions,  
4           naturally, was the Manitowoc County Sheriff's  
5           Department which had investigated the rape many  
6           years ago on the Manitowoc beach.

7                   And so when October 31, 2005, Halloween,  
8           rolls along, Lieutenant Lenk and Sergeant Colborn  
9           not only have the lawsuit to contemplate, but  
10          now, within the last three weeks, have been made  
11          witnesses in it and had their depositions taken.

12                   October 31, 2005, began at the Avery  
13          Auto Salvage Yard, much as any workday would.  
14          This was a Monday, the yard was open. Not long  
15          after 8:00 in the morning, about 8:12 in the  
16          morning, Steven Avery called Auto Trader down  
17          in -- actually I think in Hales Corners, Highway  
18          100 down on the southwest side of Milwaukee,  
19          called Auto Trader, as he had done a number of  
20          times before, and said, we need a photographer,  
21          we have a car for sale.

22                   Now, the car belonged to Barb Janda, the  
23          van, the mini van you saw computer images of and  
24          actual photographs of. It was there. It was  
25          hers. It was for sale. I don't expect there

1 will be any dispute about that. And it was  
2 Barb's to sell. The calls about it were Barb's  
3 to take, the price was Barb's to dicker or  
4 negotiate with people interested in making an  
5 offer, on the used van.

6 Steve left B. Janda as the name because  
7 that was the name of the seller. But Barb works  
8 during the day at a factory in town. She does  
9 not work at the salvage yard as Steven did. He  
10 leaves her telephone number because that's where  
11 the phone calls have to go if there's an  
12 interested buyer.

13 And this, you will find out, is not at  
14 all unusual or sinister. It doesn't involve  
15 luring anyone anywhere. There was a car for  
16 sale. There were photographs to be taken. And,  
17 indeed, on that day alone, for Teresa Halbach,  
18 with the three appointments we know about; this  
19 was not the only appointment where the seller of  
20 the car was not the person whose name was given  
21 to *Auto Trader*.

22 The Schmitz car was called in by and  
23 listed as an appointment for a Craig Sippel  
24 (phonetic). And that little bit of confusion was  
25 quickly cleared up by the police. Wasn't really



1 Sippel's car; it was Schmitz's car, no big deal.  
2 But she thought she was going to see a Craig  
3 Sippel, not a Steven Schmitz.

4 She thought that she was going to see a  
5 B. Janda, I suppose, not a Steven Avery. But  
6 here's what she knew, she knew the address.  
7 Steven gave the address. This is an address, as  
8 Mr. Kratz explained to you and I agree, to which  
9 Teresa Halbach had been a number of times,  
10 probably about a half dozen, five, six, maybe  
11 more times, to take photographs of cars or the  
12 trailer for sale, for example, the photograph you  
13 saw.

14 She knows the address. She knows where  
15 she's going. As you will see, this is not a  
16 surprise, or a secret to her or to anyone else.  
17 And at 11:45 that morning, she called Barb  
18 Janda's number and evidently left a voice mail  
19 message saying that she would be able to get  
20 there that day, sometime after 2:00.

21 Now, this Manitowoc County area was  
22 Teresa's territory so to speak, for Auto Trader.  
23 This was her freelance work as I understand, not  
24 her main source of income. Her photography  
25 studio work I think probably was her passion and

1           this was a side job for a young photographer to  
2           generate some more money.

3                       She has a territory for Auto Trader.  
4           Steven Avery wouldn't necessarily know what her  
5           territory is or whether she's the only  
6           photographer working it. And sometime close to  
7           2:30, he's obviously getting fidgety. He makes  
8           two phone calls to her cell phone from his cell  
9           phone and he uses the \*67 feature, you will find  
10          out, which as I understand it on the -- on  
11          Teresa's telephone, then, no telephone number  
12          would come up; come up is unavailable, or  
13          something like that, or blocked.

14                     But he is on his own cell phone and he  
15          may not want, not being entirely sure whose  
16          number he is calling, he may not want to be  
17          giving out his cell phone number. At least the  
18          second of those calls goes unanswered.

19                     And the time frame gets fuzzy here.  
20          Mr. Kratz said that it was late afternoon that  
21          Teresa arrived and I'm inclined to agree with  
22          that; although it is difficult to nail down. But  
23          I think the best evidence you will hear is that  
24          although Teresa Halbach is in the neighborhood of  
25          the Zipperers, who are really just -- I don't

1 know how far, but not too far down Highway 147  
2 and then south toward Manitowoc a little bit. So  
3 they are in the general vicinity.

4 And I think at about 2:15 she's near the  
5 Zipperers, trying to figure out exactly where  
6 she's going to get to the Zipperers to take that  
7 photograph of their car. But I think the best --  
8 the best estimate we'll get out of the evidence  
9 of when she actually arrives at Avery Road, which  
10 is that gravel road that leads down towards,  
11 first, Barb Janda's trailer and then Steven  
12 Avery's trailer, which you saw on the north edge  
13 of the 40 acre parcel; the best estimate of when  
14 she swings her Toyota down that gravel road is  
15 probably shortly before 3:30, probably not 2:45,  
16 as one of Barb Janda's sons, Bobby Dassey,  
17 recalls it.

18 Why do I say the best estimate, because  
19 there is a school bus driver. Two of Barb  
20 Janda's boys, Brendan and Blaine, are still in  
21 Mishicot High School and it's Monday, as I said.  
22 And they ride the school bus. And school  
23 schedules being what they are, of course, unless  
24 there is really terrible weather or something,  
25 school lets out at the exact same time every day,



1 the bell rings and kids run out the door.

2 The bus is going to be leaving about the  
3 same time and the bus driver will be driving the  
4 same route every day. So this bus driver, who's  
5 no relation to the Avery family, or the Halbachs,  
6 or anybody else for that matter, just happens to  
7 be the school bus driver; her name is Lisa  
8 Buchner.

9 Lisa Buchner, when interviewed by the  
10 police says, you know, about 3:30 when I dropped  
11 the Dassey boys off at the head of Avery Road, I  
12 looked down the road and I saw a young woman  
13 taking a photograph, or photographs, of a van.  
14 Now, Buchner actually isn't sure when she's  
15 questioned about this whether it's Monday,  
16 Tuesday, or Wednesday of that week.

17 But Monday is the day that a young woman  
18 would have been taking a photograph of the van,  
19 down near the end of Avery Road. So she's got a  
20 pretty good reason to have a good bead on the  
21 time. She's going to know her route, this is  
22 something she's doing five days a week. And it's  
23 about 3:30 that she sees this young woman down  
24 the road, taking a photograph of the van.

25 Teresa Halbach does her business. And

1 the way this works is the person selling the car  
2 then gives the photographer \$40. The  
3 photographer makes out a receipt for the  
4 transaction, typically also offers the customer  
5 the current copy, current edition of the *Auto*  
6 *Trader Magazine* and leaves.

7 And that's what Teresa Halbach did.  
8 Steven Avery last sees her going back out Avery  
9 Road and about to turn left to go back out to  
10 Highway 147.

11 Now, somebody clearly sees her later.  
12 We don't know who, I don't know where, I don't  
13 know when. And I, like Mr. Kratz, don't know  
14 why.

15 I do know this and can tell you that you  
16 will hear this about the evidence. One of the  
17 things that the photographers who freelance or  
18 work for *Auto Trader* do, is to go take  
19 photographs on appointments that have been set  
20 for them through the *Auto Trader* office.

21 But there is another thing they can do,  
22 they get some money for that, obviously. Some of  
23 the \$40 goes to the photograph. But there's  
24 another thing they can do and that's called a  
25 hustle shot. The hustle shot is exactly that,

1           it's business that the photographer hustles up  
2           for herself, or for himself.

3                     And as an incentive for the  
4           photographer, to hustle a little bit and, you  
5           know, thicken the *Auto Trader Magazine* with new  
6           customers selling cars, or boats, or trailers, or  
7           whatever, as an incentive for their photographers  
8           to do that, *Auto Trader* gives the photographer a  
9           little bigger cut on a hustle shot.

10                    You are going to learn that Teresa  
11           Halbach was good at hustle shots. She drummed up  
12           a lot of these. She was likeable. She was hard  
13           working. She was good at getting hustle shots.

14                    I have no idea -- I have no idea at all  
15           and I don't think you will either, unfortunately,  
16           whether she had a hustle shot, or two, or three,  
17           that day or not. It would not have been  
18           uncommon. But if, in fact, she's near the  
19           Zipperers at 2:15 and as I think is probable from  
20           the evidence, she doesn't show up to the Averys  
21           until about 3:30, it's possible there's a hustle  
22           shot in there or I suppose stopping for lunch or  
23           something, we don't know.

24                    It's possible there are hustle shots  
25           that are not scheduled through *Auto Trader* after



1 the Avery shot. Because after all, I mean, if  
2 we're at 3:30, there's a good bit of daylight  
3 left in the working day, I suppose. But we don't  
4 know.

5 What we do know is that someone sees her  
6 later. And Steven Avery calls her later, as a  
7 matter of fact, from his cell phone. Again, he  
8 calls her cell phone at about 4:35 that  
9 afternoon. Why, because he thought, I have got  
10 another car I would like to sell. I might as  
11 well, if she's still around, or if she can swing  
12 back, I might as well have her shoot that one  
13 too.

14 But he doesn't get an answer from her,  
15 doesn't answer the phone, when he calls at 4:35.  
16 He sticks around. And at that point his  
17 girlfriend, Jodi Stachowski, is in jail serving  
18 some time for a drunk driving conviction. She's  
19 in the Manitowoc County Jail.

20 Jodi, you will learn, calls Steven  
21 regularly. Because she's in jail, she has to  
22 call collect. And you can't call collect from a  
23 jail to a cell phone. I don't know if you can  
24 call collect to any cell phone from anywhere.  
25 But in any event, you can't call a cell phone

1 from the jail, calling collect. So you have got  
2 to call a land line.

3 So that's exactly what Jodi Stachowski  
4 does, first a little bit after 5:30 in the  
5 evening she calls. And jail systems, I don't  
6 know if you know this, but jail systems,  
7 typically, and the Manitowoc County Jail clearly  
8 does this, cut off phone calls after 15 minutes.  
9 Inmates have a lot of time on their hands,  
10 sometimes people they are calling don't. So the  
11 call just ends at 15 minutes.

12 So Jodi calls about a little bit after  
13 5:30 on the land line. And then she calls again  
14 just shortly before 9:00 p.m. And Steven is  
15 home. Steven answers the phone in his little red  
16 trailer there, both times. And both of those  
17 conversations go 15 minutes, almost to the  
18 second.

19 He tells her that he's been doing a  
20 little cleaning. He tells her that Brendan, his  
21 nephew, Brendan Dassey, is over. They hassle.  
22 These are inane conversations, honestly, but they  
23 are tape recorded, because every phone call out  
24 of the jail is tape recorded, so we know they  
25 happen.

1 Does it sound like he's just killed  
2 someone, no. Does he hide the fact that his  
3 nephew, Brendan, from 50 yards away, or whatever  
4 it is, Barb's trailer, has come over, no.  
5 Doesn't have to tell Jodi that, if they were up  
6 to something no good, but he does. Brendan is  
7 around.

8 And for all the world, as I say, these  
9 conversations simply are inane, they don't ring  
10 of someone who has committed a murder or in the  
11 midst of committing a murder, or in the midst of  
12 mutilating a corpse or falsely imprisoning  
13 anyone, no screaming in the background. They are  
14 just inane telephone conversations between a  
15 squabbling boyfriend and a squabbling girlfriend.

16 And October 31 comes to a close. It's  
17 about three days later, Thursday evening about  
18 5:00, November 3, when Mrs. Halbach reports  
19 Teresa missing. Teresa lives almost next door to  
20 the elder Halbachs; I mean, the two houses, you  
21 can see the one from the other, on the dairy  
22 farm, up north of here, in Calumet County.

23 So the report goes to the Calumet County  
24 Sheriff's Department. It's a missing person  
25 report. No one has seen Teresa since Sunday,



1 actually. And the Calumet County Sheriff's  
2 office responds, interviews the family, a couple  
3 of close friends, and learns very quickly about  
4 these three appointments that Teresa had on  
5 Monday. Now, at least two of those -- at least  
6 two, maybe the third even, but at least two, are  
7 in Manitowoc County; Zipperers and Avery, or B.  
8 Janda.

9 So the Calumet County Sheriff's  
10 Department calls for help from the Manitowoc  
11 County Sheriff's Department on this missing  
12 person report; that very night, 5:00, the report  
13 is made. By the end the of the dinner hour,  
14 Calumet County is calling the Manitowoc County  
15 Sheriff's Department for a little bit of help.

16 And who do we get? We get Sergeant  
17 Andrew Colborn. And he's told, look, two places  
18 we would like to sort of check out and see if  
19 Teresa Halbach showed up on Monday, the Zipperer  
20 residence and Steven Avery. Well, that's a name  
21 that rings a bell, you better believe; less than  
22 three weeks, or about three weeks, after his  
23 deposition.

24 And it is interesting that of those two  
25 places that Sergeant Colborn is asked to check

1 out and inquire after Teresa Halbach, he only  
2 goes to one. He goes to Steven Avery's home and  
3 Steven cooperates with him. Tells him  
4 essentially what I have told you about Teresa  
5 Halbach coming to take the picture of Barb  
6 Janda's van. Doesn't clam up, doesn't seem  
7 nervous, isn't uncooperative; that very night,  
8 November 3, around 7:00, when Sergeant Colborn  
9 knocks on his door.

10 Out of the blue, the same night,  
11 Lieutenant James Lenk, now the head of the  
12 Detective Unit in Manitowoc County Sheriff's  
13 Department, calls Calumet about this missing  
14 person report. Now, at this time, on Thursday  
15 night, November 3, this is -- let's be clear,  
16 this is just a missing person report, a young  
17 woman who hasn't been seen for three days.

18 It's in another county. It's not even  
19 Manitowoc County at all. And nobody has called  
20 for Lieutenant Lenk. And nobody's called looking  
21 for him. But the chief detective of Manitowoc  
22 County takes it upon himself, that night, to call  
23 Calumet and offer to get involved in the missing  
24 person investigation where one of the  
25 appointments that was to be kept was Steven

1 Avery.

2 And the next morning, Lieutenant Lenk  
3 does one better than that, he goes out himself to  
4 Steven Avery's trailer with another officer from  
5 Manitowoc. And he knocks on the door again, just  
6 as Sergeant Colborn had done the night before,  
7 inquiring after Teresa Halbach. Again, Steven  
8 Avery is cooperative.

9 Lieutenant Lenk asks, could I take a  
10 walk through your trailer, can I look around, do  
11 you mind? No, I don't mind. Come on in.  
12 Lieutenant Lenk walks through Steven's trailer,  
13 sees nothing amiss, thanks him for his  
14 cooperation and leaves.

15 November 5, Saturday, Steven has left to  
16 go to the family cabin up in Crivitz, early that  
17 morning, where Allen goes every weekend and most  
18 of the family goes up too. Steven has gone up on  
19 Saturday morning. But about 10:30 on Saturday  
20 morning, Pam and Nikole Sturm find the Toyota  
21 they suspect, correctly, as it turns out, is  
22 Teresa's. As it turns out, is Teresa's, in the  
23 far diagonal corner of the salvage yard from  
24 Steven Avery's trailer.

25 As you might expect, law enforcement



1 officers descend on the property and the first to  
2 arrive are Manitowoc County Sheriff's Department  
3 officers at just about 11:00, in the morning, on  
4 the nose. And, folks, from that point forward,  
5 from 11:00 a.m. on Saturday, November 5, 2005,  
6 this is not so much a funnel approach, as you  
7 will see. It is a tunnel approach. It is a  
8 tunnel vision approach to this case.

9 All of the feelings about Steven Avery,  
10 all of those churning emotions, all of that,  
11 within the Manitowoc County Sheriff's Department,  
12 floods out. You can call it tunnel vision, you  
13 can call it investigative bias, but from that  
14 point on, this investigation is about Steven  
15 Avery and not much else.

16 From 11:00 in the morning on Saturday,  
17 November 5, 2005, before the police say they have  
18 even opened the car; before they say they know of  
19 any blood of any sort in or on the car; before  
20 anybody even knows whether this young woman has  
21 been hurt or killed, the focus is on Steven  
22 Avery.

23 Other people are asked, her male  
24 roommate; former boyfriend and current friend,  
25 Ryan Hillegas; others are asked: Do you know

1 anything about her disappearance? Did you have  
2 anything to do with it? All of them say no. And  
3 those denials, those statements are accepted.

4 Not Steven Averys, not Steven Avery's  
5 denials or expressions of innocence. Time and  
6 again the police go back to Steven Avery and ask  
7 the same questions. And he talks to them every  
8 time.

9 Even by the time his lawyers in the  
10 civil lawsuit down in federal court in Milwaukee  
11 find out about it and are trying to encourage him  
12 not to the talk to the police, he talks. On the  
13 3rd to Colborn, on the 4th to Lenk, on the 5th to  
14 officers up in Crivitz, on the 6th, on the 9th,  
15 he talks. And he is not believed. Do they want  
16 to go through his house, sure, come on in my  
17 house, on November 4, Lieutenant Lenk.

18 After the Toyota is found and the police  
19 arrive at about 11:00, that Saturday morning,  
20 Lieutenant Lenk and Sergeant Colborn come in to  
21 work and they too arrive at the Avery property.  
22 You will hear that Lieutenant Lenk now has  
23 changed his sworn version of when he arrived that  
24 afternoon.

25 And he has the ability to change his

1 sworn story about when he arrived that afternoon  
2 at the Avery property, because somehow he avoided  
3 signing in on the log, the log sheets that the  
4 Calumet County Sheriff's Department was keeping  
5 of that potential crime scene. He signed out,  
6 but somehow he managed not to sign in.

7 And on that 40 acre parcel, after the  
8 Toyota has been turned over to the Division of  
9 Criminal Investigation in Madison, now, as search  
10 efforts are to be begin on that parcel, now the  
11 Manitowoc County Sheriff's Department nominally  
12 turns over control of the investigation to  
13 Sheriff Jerry Pagel of the Calumet County  
14 Sheriff's Department, this county's sheriff's  
15 department. Nominally, that afternoon, control  
16 of this investigation was turned over to Calumet  
17 from Manitowoc because of the apparent conflict  
18 of interest that Mr. Avery's lawsuit represents  
19 for the Manitowoc County Sheriff's Department.

20 Now, if you are thinking, though, that  
21 the evidence will show you that Manitowoc County  
22 bowed out because of the conflict of interest  
23 after it turned the investigation over to Calumet  
24 County; if you are thinking that, it's  
25 reasonable, but you are wrong. Manitowoc County



1 Sheriff's Department stays very much involved in  
2 this investigation.

3 And what does Lieutenant Lenk and what  
4 does Sergeant Colborn do by way of volunteering  
5 to help, that very afternoon, Saturday  
6 November 5. Do they volunteer to help look in  
7 the 4,000 cars? No. Do they volunteer to search  
8 Allen and Delores Avery's home? No. How about  
9 the pole barns or the outbuildings of the salvage  
10 property's business itself? No. They volunteer  
11 to search Steven Avery's trailer. And they do,  
12 on November 5.

13 And once they get into that trailer with  
14 the search warrant, well, then, what these two  
15 do -- and there are two other officers with them,  
16 one from Manitowoc and one from Calumet -- what  
17 Lenk and Colborn do is, they say, don't worry,  
18 we'll take Steven's bedroom. And they search  
19 this bedroom.

20 Now, this is a mobile home. If the  
21 bedroom itself is 10 by 12, or 12 by 12, or 10 by  
22 10, I would be surprised if it was much bigger  
23 than that. From me to the wall in front of you  
24 is about the depth and roughly the width of that  
25 bedroom in the small trailer in which Steven

1 Avery lives.

2 They search, that is, Lenk and Colborn  
3 search his bedroom on the night of November 5.  
4 And they find nothing of interest. They see the  
5 guns; they stay on the wall. But don't bother  
6 seizing guns on the 5th, come back to those the  
7 next day. And it is Lenk and Colborn who come  
8 back the next day, not somewhere on the property,  
9 but to Steven Avery's trailer.

10 On November 6, they search his garage,  
11 garage is actually between him and his sister  
12 Barb's trailer, but for our purpose here, let's  
13 call it his garage. You will find out that the  
14 Dassey boys have access to the garage, Barb has  
15 access, the family has access to this garage.

16 But it's Lenk and Colborn and another  
17 detective from Manitowoc County named Dave  
18 Remiker who searched the garage on Sunday, the  
19 6th. They find 10, maybe it's 11, something, 10  
20 or 11 spent .22 casings. And they pick all of  
21 those up.

22 But remember -- remember the bullet  
23 that's found under little tent number 9 on the  
24 picture that Mr. Kratz showed you? The bullet  
25 that's apparently in a crack in the floor, right

1       smack in the middle of the garage near the front  
2       where the door is? That, no one sees or picks up  
3       on November 6th, November 7th, November 8th and  
4       so forth through November 12th.

5               Neither does anyone see a bullet back  
6       under the air compressor. But you will see  
7       photographs of that garage as it was in  
8       November 2005, not as it was in March, 2006,  
9       when, finally, low and behold, why there's  
10      bullets, why don't we pick up these bullets.

11             You will see the garage in photographs,  
12      not computer simulations, photographs, as it was  
13      in November, 2005. You will be able to see, that  
14      although the garage is very cluttered, there's no  
15      clutter under the air compressor. There's no  
16      clutter there, where four months later someone  
17      finds a magic bullet, there, as you walk into the  
18      garage, looking at the floor.

19             November 7, Steven Avery's trailer is  
20      searched again, guess who; Lenk and Colborn. Now  
21      there probably -- There certainly are over 50 law  
22      enforcement officers on this property, 24 hours a  
23      day, well before November 7th, probably by  
24      sometime late the night of the 5th, certainly by  
25      the 6th. There may be over 100 law enforcement



1           officers working this property.

2                   They have got the family excluded. They  
3           have got a perimeter around the entire 40 acres  
4           and more. They are controlling traffic and  
5           entry. They are logging in who comes and goes.  
6           They control this place.

7                   And as you heard Mr. Kratz say, they  
8           have got any number of people searching, but it's  
9           Lenk and Colborn, again, who are searching  
10          Mr. Avery's trailer, there in the northwest  
11          corner of that salvage yard. And on November  
12          7th, they find nothing of interest in his home.

13                   Tuesday, November 8, they are back.  
14          They are back in Mr. Avery's home, back in that  
15          small bedroom. And now, Lieutenant Lenk, on what  
16          you will hear is probably the seventh search of  
17          that small bedroom, Lieutenant Lenk, now, when  
18          he's the only one in that room, says, why, my  
19          gosh, there's a key sitting in plain view, next  
20          to the night stand.

21                   There is, you saw a picture of it as he  
22          says he found it, one solitary key on a ring,  
23          connected to a fob. That key fob is just like,  
24          and probably is, the one that Teresa Halbach's  
25          younger sister bought her as a little present.

1 One key, and one key only, on the ring connected  
2 to that fob, it's a Toyota key.

3 And the man whom the State would have  
4 you believe bled all over Teresa's car, manages  
5 not to bleed on her key. His blood isn't found  
6 there, although, apparently, somehow his DNA is,  
7 but not his fingerprints. And more  
8 interestingly, although this is a 1999 Toyota and  
9 I gather she's been using this key, the State  
10 believes, every day to start her car and turn it  
11 off, Teresa Halbach's DNA and fingerprints are  
12 not found on her key.

13 For good measure, on November 8,  
14 Lieutenant Lenk and Sergeant Colborn searched  
15 Steven Avery's garage yet again. No bullets, no  
16 nothing. And the case against Steven Avery,  
17 largely, is made at that point. And a whole lot  
18 of it, as you will see, depends on lieutenant  
19 James Lenk, Sergeant Andy Colborn.

20 And they, both of them, have elected  
21 never to tell Sheriff Jerry Pagel, the man in  
22 charge of the investigation for Calumet County;  
23 they have elected not to tell him that they had  
24 their depositions taken in Steven Avery's case  
25 probably three weeks earlier. They didn't tell

1 anybody in the Calumet County Sheriff's  
2 Department that.

3 November 8 is also the day that the bone  
4 fragments are found in a burn area hardly 20  
5 yards outside Steven Avery's master bedroom  
6 window. Hardly 20 yards. Small burnt bone  
7 fragments, human burnt bone fragments. But what  
8 you will learn and you do not hear this morning,  
9 what you will learn is that burnt human bone  
10 fragments also apparently are found in one of the  
11 burn barrels behind Barb Janda's house.

12 Burnt the same way, fragmented about the  
13 same way, and apparently human in origin. Not  
14 Steven Avery's burn barrel, not the one you heard  
15 about, but there are four burn barrels to the  
16 southeast, that is the most distant corner of  
17 Barb Janda's trailer, from Steven Avery's  
18 trailer. Four burn barrels back there for Barb  
19 Janda and the Dassey boys. Burnt bone fragments.

20 And there are what seem to be probable  
21 human burnt fragmented bones found in the Radandt  
22 Gravel Quarry, probably a quarter mile south of  
23 Steven Avery's property.

24 Now, I don't think that the State has  
25 been able to link, through DNA analysis, those



1 burnt bone fragments conclusively to Teresa  
2 Halbach.

3 But how many burnt human bone fragments  
4 are there supposed to be, and when you only have  
5 one person missing. And the burnt human bone  
6 fragments in the Janda burn barrel, about which  
7 you did not hear this morning, those are  
8 fragments from bones that are not connected, not  
9 part of one limb, not connected to one another  
10 within the human body. Sort of a random mix of  
11 bone fragments, as apparently are those that are  
12 found a quarter mile to the south in the Radandt  
13 gravel pit.

14 And as you piece this evidence together,  
15 here's what you are going to have to conclude,  
16 bone fragments, parts of this body were found  
17 where they were not burned. They were burned and  
18 moved because, again, the fragments aren't  
19 connected to one another.

20 It's not that, you know, it's not that  
21 an arm could have been removed and burned one  
22 place and the rest of the body another place. We  
23 have got the fragments themselves mixed up and  
24 found in three different places. The body  
25 couldn't have been burned in that way, in three

1 different places or even two, if you set aside  
2 the Radandt gravel pit. These bone fragments  
3 were moved.

4 The question then becomes, the question  
5 you will have to decide eventually is, were they  
6 moved from Steven Avery's burn area to the Janda  
7 burn barrel or the gravel quarry, or were they  
8 moved from somewhere else to Steven Avery's burn  
9 area and maybe to one of the other places where  
10 bone fragments, burnt, are found.

11 At least, did they start in the burn  
12 area and get moved somewhere else, or did they  
13 start somewhere else, burned somewhere else and  
14 get moved to the burn area. Now, an expert --  
15 experts here, in what scientists will call  
16 thermal injuries to bodies, cremation, an expert  
17 or two, to the extent you hear that, may be able  
18 to give you some help on that question, some  
19 help, but I'm not sure that an expert can answer  
20 this conclusively.

21 In the end, you folks are going to have  
22 to do the hard work and the hard thinking on  
23 that. But I think when you have heard it all,  
24 you will conclude that it's at least most likely,  
25 more probable, that the bones were moved to

1 Steven Avery's burn area, not burned there and  
2 moved from that area to another place or two.

3 Why? You are going to find out that  
4 there are better places, even on the Avery  
5 salvage yard property, in which to incinerate a  
6 body. The burn area is relatively flat and  
7 scooped out a little bit, but it's relatively  
8 flat and open. It's a burn area, like many farms  
9 or rural homes have, just folks have burn  
10 barrels.

11 It doesn't have well developed sides to  
12 focus heat back inward on the fuel or things  
13 being burned. Neither does it have a ready  
14 external source of fuel. But the aluminum  
15 smelter, the aluminum smelter at the Avery Auto  
16 Salvage property does. Big propane jets, an  
17 enclosed area, it will take an aluminum  
18 transmission down to liquid in a few minutes.

19 The wood furnace that heats the  
20 outbuildings of the Avery Auto Salvage business;  
21 Chuck's home; Allen and Delores' home, that's an  
22 enclosed area that will incinerate fuel in it  
23 very quickly.

24 And because we have got probable human  
25 burnt bone fragments found on the adjoining



1 property, the gravel quarry to the south, we  
2 can't rule out other possible burn sites. And an  
3 expert won't be able to tell you what other  
4 possible burn sites there are. Expert or not,  
5 that's not something he or she will be able to  
6 tell you.

7 But once it's more likely, as I think  
8 you will find it to be more likely, that the body  
9 is burned somewhere else and bone fragments then  
10 are brought to Steven Avery's burn area, then  
11 he's not guilty. Because if he's the one who  
12 burned the body somewhere else, he's not going to  
13 bring the bones back to dump them 20 yards  
14 outside his bedroom window.

15 Neither is he going to dump a cell phone  
16 and a digital camera and a palm pilot in his own  
17 burn barrel. Too many other places where these  
18 things could be disposed of out in the salvage  
19 yard, whether the retention pond, whether the  
20 gravel quarry, or some other burn barrel in the  
21 woods. So once you understand that those bones  
22 probably were not burned in that burn area, the  
23 fact that they are found there, you will see  
24 tends to suggest he's not guilty, not that he is.

25 It is perfectly clear to anyone around

1 this investigation on whom the focus of the  
2 Manitowoc County Sheriff's Department and the  
3 other investigators, to the extent that tunnel  
4 vision, that investigative bias bled over, it's  
5 perfectly clear on whom the focus of this  
6 investigation is.

7 The police didn't kill Teresa Halbach,  
8 obviously, they have that in common with Steven  
9 Avery, but they wanted to believe he did. They  
10 very much wanted to believe that he did. And  
11 whoever did kill her, or burned that body,  
12 exploited that tunnel vision pretty skillful.

13 Suggesting this sort of tunnel vision,  
14 suggesting this kind of investigative bias,  
15 planting blood in her car, fairly serious  
16 allegations to make. In fact, I will take away  
17 the fairly, they are serious allegations.  
18 Understand them, that bias and tunnel vision are  
19 human anomalies.

20 And if you conclude, reluctantly, that  
21 Mr. Lenk or Mr. Colborn, in addition to all the  
22 other interests they took in searching and  
23 focusing on Steven Avery, planted blood in her  
24 car, you will also conclude that they put it  
25 there because they figured it had to be there.

1           It should be there. It must be him.

2                       This wasn't so much, I think the  
3           evidence will show you, an effort to frame an  
4           innocent man, it was an intense, intense desire  
5           to conclude that he, in fact, was the guilty man;  
6           all other possible leads for information not  
7           withstanding. It was an immediate focus on this  
8           man, starting shortly after 11:00, Saturday,  
9           November 5, 2005. But you do not have to take my  
10          word for that.

11                      I can make this work; I'm not as adept  
12          at it as I should be. I'm going to play for you,  
13          two tapes, a part of it, just excerpts, short  
14          excerpts of two tapes.

15                      The first one is Saturday, November 5,  
16          2005, at 11:35 in the morning, 35 minutes give or  
17          take a minute or two, after the Manitowoc County  
18          Sheriff's Department first has arrived at the  
19          Avery property, because that Toyota has been  
20          found; well before the police say they opened the  
21          Toyota; well before they say they knew of any  
22          blood; well before Brutus, the friendly cadaver  
23          dog comes along and hits; 35 minutes after the  
24          first officers arrived when the Sturm's called  
25          and said, hey, we think we found something.



1           What I'm going to do is scroll through a  
2 transcript that we prepared and then I will play  
3 the excerpt of the tape for you. It is not a  
4 great recording. The transcript is not evidence,  
5 the tape will be, I expect. So if you think my  
6 transcript is wrong, listen to the tape; it's the  
7 evidence, or it will be. That's the tape that  
8 matters. The transcript may help you in  
9 understanding it or hearing it.

10           Detective Remiker is calling in, he's  
11 asking for dispatch. Dispatch responds, I put  
12 unintelligible, I think it's go ahead, but I'm  
13 not sure, you can decide. Maybe you won't  
14 understand it for sure either.

15           Detective Remiker says to the  
16 dispatcher, you will need to get ahold of the  
17 Crime Lab for their evidence response team to  
18 start responding to this location. Now, he's out  
19 at the Avery Salvage Yard. As you will hear.  
20 Dispatch says, 10-4, Crime Lab out of Madison,  
21 Milwaukee, where?

22           Our Crime Lab has branches in Wausau,  
23 Madison and Milwaukee. The main one is in  
24 Madison. Detective Remiker says, it's going to  
25 be the Madison response team and he was right.

1                   Now, Detective Jacobs joins in, this  
2                   radio traffic, radio conversation. Calls in with  
3                   his badge number, his squad number, I'm in code,  
4                   you will find out what that means, anything you  
5                   need other than a portable for Schetter. And  
6                   what you'll find out is he's talking about a  
7                   portable radio for Deputy Inspector Greg Schetter  
8                   of the Manitowoc County Sheriff's Department who  
9                   is, I think, the number two or three ranking  
10                  officer in the Department and who's probably also  
11                  going out to the Avery property. Detective  
12                  Remiker, not that I can think of right now,  
13                  Dennis. Dennis Jacobs. Let's see if this work.

14                   (Tape recording played.)

15                  DETECTIVE REMIKER: Yeah, need to get a  
16                  hold of the Crime Lab for their evidence response  
17                  to start responding at this location.

18                  DISPATCH: 10-4. Crime Lab out of  
19                  Madison, Milwaukee, where?

20                  DETECTIVE REMIKER: Madison response  
21                  team.

22                  DETECTIVE JACOBS: 278, I'm in code,  
23                  anything you need other than a portable for  
24                  Schetter.

25                  ATTORNEY STRANG: It cut off. Sorry about

1           that, you will hear -- You will get a chance to hear  
2           the whole conversation. And it continues, Dennis  
3           Jacobs says, okay, other than the car, do we have  
4           anything else. He's talking to Remiker here. Dave  
5           Remiker says, not yet. Detective Jacobs, Okay. Is  
6           he in custody? Detective Remiker, Negative, nothing  
7           yet.

8                       Not who, not is who in custody, but  
9           negative. He is not in custody, nothing yet.  
10          Detective Jacobs, Okay. I'll gather my stuff and  
11          head out.

12                       (Tape recording played.)

13                      DETECTIVE JACOBS: Okay. Other than the  
14          car do we have anything else?

15                      DETECTIVE REMIKER: Not yet.

16                      DETECTIVE JACOBS: Is he in custody?

17                      DETECTIVE REMIKER: Not yet, nothing  
18          happening.

19                      DETECTIVE JACOBS: Okay. I will gather  
20          my stuff and head out.

21                      ATTORNEY STRANG: Now, that's 11:35, is he  
22          in custody yet. Detective Remiker, clearly, I  
23          gather, as I hear it, knows who Detective Jacobs is  
24          talking about, but we don't, 35 minutes after the  
25          police have arrived.



1                   And to get a better feel for that  
2 conversation at 11:35, we have to go back five  
3 minutes earlier when Detective Jacobs is calling  
4 in on the land line, 5 minutes earlier, 30  
5 minutes, 30 minutes after the police have arrived  
6 at the Avery property after Teresa's car has been  
7 found there.

8                   Dispatcher answers the phone. Detective  
9 Jacobs, Katie -- the name of the dispatcher --  
10 just rolled into the parking lot. Can you tell  
11 me, do we have a body or anything yet? Do we  
12 have a body or anything yet? This is 30 minutes  
13 after they found the car.

14                  I don't believe so. I believe they  
15 wouldn't find the first bone fragment for three  
16 days. Do we have Steven Avery in custody,  
17 though? I have no idea. You can hear it  
18 yourself.

19                  (Tape recording played.)

20                  DISPATCH: Good morning. Manitowoc  
21 County Sheriff's Department, Katie speaking.

22                  DETECTIVE JACOBS: Katie, I just rolled  
23 into the parking lot. Can you tell me, do we  
24 have a body or anything yet?

25                  DISPATCH: I don't believe so.

1 DETECTIVE JACOBS: Do we have Steven  
2 Avery in custody?

3 (Tape recording starts playing again.)

4 DISPATCH: Good morning. Manitowoc  
5 County Sheriff's Department, Katie speaking.

6 DETECTIVE JACOBS: Katie, I just rolled  
7 into the parking lot, can you tell me do we have  
8 a body or anything yet?

9 DISPATCH: I don't believe so.

10 DETECTIVE JACOBS: Do we have Steven  
11 Avery in custody at all?

12 DISPATCH: I have no idea.

13 ATTORNEY STRANG: Now, I will finish it out  
14 so you can link it up to the call -- the discussion  
15 with Detective Remiker 5 minutes later. Oh, I heard  
16 him say pick up that party. Oh no, the dispatcher  
17 says, Pete, who is just another Manitowoc County  
18 Sheriff's officer, is sitting up there waiting and  
19 stopping people from going in and that. He found  
20 someone with a body only warrant for our department.

21 A body only warrant is an arrest warrant  
22 or a bench warrant where they are going to take  
23 the person into custody, rather than immediately  
24 grant him bail. Okay. Do we have -- All right.  
25 I will talk to Remiker. Yeah, your best bet is

1 to talk -- because nothing has come through. We  
2 have the vehicle, that I know. But more than  
3 that, I don't know. All right. Bye. Bye.

4 (Tape recording played.)

5 DETECTIVE JACOBS: Oh, I heard him say  
6 pick up that party.

7 DISPATCH: Oh, no. We have -- Well,  
8 Pete is sitting up there waiting and stopping  
9 people from going in and that. He found somebody  
10 with a body only warrant for our department.

11 DETECTIVE JACOBS: Okay. Do we have --  
12 All right. I will talk to Remiker.

13 DISPATCH: Yeah, your best bet is to  
14 talk to -- Nothing has come through. We have the  
15 vehicle, that I know.

16 DETECTIVE JACOBS: All right. Thank  
17 you.

18 DISPATCH: But what more, I don't know.  
19 All right. Bye.

20 DETECTIVE JACOBS: Bye.

21 ATTORNEY STRANG: So you can take the  
22 tunnel vision and investigative bias from them, not  
23 from me. Now, in the end here, in the end, when you  
24 have heard it all, there's not a speck of Teresa  
25 Halbach's blood anywhere in Steven Avery's trailer.



1       There's not a piece of hair, nothing, nothing to  
2       suggest she's ever been in the trailer. And only  
3       the magic bullet found 4 months later to suggest  
4       she's ever been anywhere near the garage.

5               And when you consider the forces, the  
6       emotions, the very human failings at work here,  
7       it's no surprise that the blood from that  
8       unsecured vial, in the box, in the Clerk's  
9       Office, that Lieutenant Lenk examined back in  
10      2002, ends up in that Toyota. Because that's  
11      where it ought to be. Is he in custody yet?

12             Jerome Buting and I will not ask you to  
13      make that kind of snap judgment here. The  
14      Halbachs deserve better than that. The police  
15      deserve better than that. You owe it to  
16      yourselves, in making this decision, to do better  
17      than a snap judgment, a snap judgment 30 minutes  
18      after that Toyota is found.

19             Jerome Buting and I are going to ask you  
20      to do your job right. Think long and hard about  
21      all of the evidence. But in the end, after the  
22      full and fair consideration of everything and  
23      everyone, the full and fair consideration that  
24      Steven Avery did not get in 2005, from the  
25      Manitowoc County Sheriff's Department; we're

1 going to ask you to send him home. We're going  
2 to ask you to send him home, again. We're going  
3 to ask you to get it right this time. We're  
4 going to ask you to set it right when this case  
5 is over.

6 THE COURT: Thank you, Mr. Strang. Members  
7 of the jury, we're going to take an afternoon break  
8 now. We'll resume in 15 minutes and the State will  
9 begin the presentation of evidence. I will remind  
10 you again, as I will a number of times throughout  
11 the trial, do not discuss the case during the break  
12 or at any other time until all the evidence has been  
13 received.

14 (Jury not present.)

15 THE COURT: All right. Counsel, we should  
16 be ready to go promptly at 2:45.

17 (Recess taken.)

18 THE COURT: At this time the State may call  
19 its first witness.

20 ATTORNEY KRATZ: State will call Mike  
21 Halbach, your Honor.

22 THE CLERK: Please raise your right hand.

23 MICHAEL D. HALBACH, called as a witness  
24 herein, having been first duly sworn, was  
25 examined and testified as follows:

1 THE CLERK: Please be seated. Please state  
2 your name and spell your last name for the record.

3 THE WITNESS: Michael Daniel Halbach,  
4 H-a-l-b-a-c-h.

5 DIRECT EXAMINATION

6 BY ATTORNEY KRATZ:

7 Q. Mr. Halbach, did you know a young woman by the  
8 name of Teresa Halbach?

9 A. I did.

10 Q. Describe, who was Teresa, please.

11 A. Teresa was -- or is my sister. She was born on  
12 March 22nd, 1980. Grew up with my family on a  
13 dairy farm near Hilbert.

14 She loved travel; she had been to Spain,  
15 Mexico, New Zealand, Australia.

16 She had many friends. She loved doing  
17 things with her friends. She was a good friend  
18 of mine, as well.

19 She was my big sister, someone I could  
20 go to talk to about any problems I would have.  
21 We would go to lunch, talk about her business  
22 which she ran, called Photography by Teresa.

23 And in August of 2005, she coached her  
24 sister's 7th grade volleyball team to second  
25 place in their league. So I know that that's



1 something she really loved doing, was working  
2 with those kids. That was the main focus of her  
3 photography business as well.

4 And she graduated from the University of  
5 Wisconsin, Green Bay, in 2002, major in  
6 photography and she graduated summa cum laude.

7 Q. I'm going to hand you a couple of exhibits.  
8 First exhibit is that which is marked as Exhibit  
9 No. 1. Could you tell us what that is, please.

10 A. It's a photo of Teresa.

11 Q. Do you know when that photo was taken?

12 A. Not exactly, but by the looks of it, it was  
13 fairly recent. I would say 2005.

14 Q. Does that particular photo accurately depict your  
15 sister, Teresa, and as it did the last time that  
16 you saw her?

17 A. Yes.

18 Q. By the way, when was the last time that you saw  
19 her; do you recall?

20 A. The last time I saw my sister was October 30th,  
21 2005, the day before she went missing. We were  
22 at my grandparents house. It was my grandpa's --  
23 Halloween was my grandpa's birthday. And the day  
24 before we went to their house, the entire family  
25 was there, aunts, uncles.

1 Q. Mr. Halbach, I'm sure we'll get better at this  
2 with the jury, but I'm going to direct your  
3 attention to the large screen in the courtroom,  
4 is that another version or a larger version of  
5 what's been marked as Exhibit No. 1?

6 A. Yes, it is.

7 Q. You mentioned that Teresa was part of your  
8 family, can you tell us who else was involved in  
9 your immediate family, please?

10 A. I have an older brother, Tim; and then Teresa  
11 would be the second oldest; myself; and two  
12 younger sisters, Katie and Kelly; parents, Tom  
13 and Karen.

14 Q. Directing your attention to Exhibit No. 2, I'm  
15 also putting that on the screen for the jury; can  
16 you tell us what that is, please.

17 A. It's a photo we took outside my parents farm. I  
18 believe it was in 2004, that summer, early fall.  
19 It's a photo we used for our Christmas cards that  
20 year. And it's a photo of my family.

21 Q. And as you are pointing to Exhibit No. 2, please,  
22 could you tell us, or tell the jury, who all is  
23 in that photo?

24 A. Tom, Teresa's, I guess legally would be her step  
25 dad, standing in the back with the jean shirt; to

1 his left is, Katie, younger sister; and to her  
2 left is Kelly, the youngest of the family. In  
3 front from left to right is the oldest brother,  
4 Tim; and then my mom, Karen; then myself holding  
5 our dog, Eddy; and Teresa is on the end.

6 Q. All right. How often would you get to see  
7 Teresa; how often would you interact with her?

8 A. Every few days I would probably talk to her  
9 either on the phone, or if it was a weekend, we  
10 would probably see each other, if I was at my  
11 parent's house if she would stop over during the  
12 week, or over the weekend. So I would see her --  
13 see her or at least talk to her every three days  
14 or so.

15 Q. Are you familiar with Teresa's electronic devices  
16 that she owned?

17 A. Yes, I am.

18 Q. Could you tell us about those, please.

19 A. She owned a cell phone, a Motorola RAZR, and I  
20 know this because she talked on it a lot. She  
21 also had a palm pilot. I believe it was -- the  
22 brand was Palm 1, I believe.

23 She had tons of photography equipment,  
24 obviously. Hasselblad is one camera; Canon is  
25 another; and through one of her jobs she had a



1           little snapshot camera for the job. She worked  
2           through *Auto Trader Magazine*. She had this  
3           little snapshot camera to do that job.

4   Q.   Do you know what kind of vehicle Teresa drove?

5   A.   It was a Toyota RAV4. It was bluish-green in  
6           color.

7   Q.   We're going to have the actual photo marked as an  
8           exhibit, but I'm going to direct your attention  
9           up to the large screen. Could you tell us what  
10          it is we're looking at there.

11   A.   Could you repeat that.

12   Q.   Sure, I'm about to have this photo made part of  
13          the -- or to complete the record, but could you  
14          tell us and can you look at the large screen and  
15          tell us what it is that we're looking at.

16   A.   That's Teresa holding one of her cameras she had  
17          with her professional photography business,  
18          standing outside the driver's side door of her  
19          Toyota RAV4.

20   Q.   Mr. Halbach, could you -- regarding Teresa's  
21          RAV4, could you tell us how often you had contact  
22          with that vehicle?

23   A.   I would say I have ridden in it a few times, but  
24          I would see it whenever I saw her. It was her  
25          only vehicle, so when she would drive it or when

1 she would drive around, she would be in that  
2 vehicle. So I was very familiar with it and had  
3 ridden in it a few times.

4 Q. Teresa's license plate said -- as you sit here  
5 today, did you know or were you familiar with  
6 what Teresa's license plates were?

7 A. Yes, I was.

8 Q. And how are you familiar with that?

9 A. One of Teresa's jokes and how she remembered her  
10 license plate, her license plate numbers -- or  
11 letters and numbers were SWH-582. She remembered  
12 those letters because she would joke that it  
13 stood for single white Halbach.

14 (Exhibits No. 3 & 4 marked for identification.)

15 Q. Mr. Halbach, I provided you with two exhibits  
16 Exhibit No. 3 and Exhibit No. 4, can you tell us,  
17 though, what those are, please?

18 A. Pictures of Teresa's license plate.

19 Q. And which one of them has the sticker on it.

20 A. Exhibit No. 3.

21 Q. All right. Just so the jury is shown Exhibit  
22 No. 3, I'm going to direct your attention to the  
23 large screen, again; what is it that we're  
24 looking at?

25 A. Teresa's license plate?

1 Q. SWH-582, is that right?

2 A. That's correct.

3 THE COURT: Excuse me, Mr. Kratz, just for  
4 the record, I think the photo of Teresa Halbach with  
5 the RAV4 was referred to as an exhibit, but we  
6 haven't marked it yet; are you still looking for the  
7 original?

8 ATTORNEY KRATZ: We are, Judge. Although  
9 we have the original, Judge, we'll be referring to  
10 it either with this witness or the next witness who  
11 also has familiarity with that.

12 THE COURT: Just, I think, to keep the  
13 record straight, it should be reflected that while  
14 it may have been referred to as an expected exhibit  
15 number, it has yet to be numbered.

16 ATTORNEY KRATZ: All right, judge.

17 THE COURT: You may proceed.

18 Q. (By Attorney Kratz)~ And the other vehicle, or  
19 what I guess would be considered the front  
20 license plate, you said that was Exhibit No. 4;  
21 is that right?

22 A. Yes, that's correct.

23 Q. And I have now directed your attention to that on  
24 a large skween -- screen, excuse me, once again,  
25 Exhibit No. 4, the large screen photo here,



1 accurately reflects Exhibit No. 4; is that  
2 correct?

3 A. Yes, it does.

4 Q. All right. I have now handed you what's been  
5 marked for identification as Exhibit No. 5, tell  
6 us what that is, please.

7 A. It is the picture we looked at not too long ago  
8 with Teresa standing outside the driver side of  
9 her Toyota RAV4.

10 Q. Just for the record, Exhibit No. 5, then, would  
11 be the image that we're looking at on the screen  
12 now; is that correct?

13 A. Yes.

14 Q. All right. By the way, Mr. Halbach, did you have  
15 an idea as to when this photo was taken? Did I  
16 ask you this?

17 A. You didn't ask me that. I mean, I would guess  
18 sometime maybe 2004, maybe early 2005.

19 Q. I guess the question that the jury needs to know  
20 is, was this Toyota RAV4, the vehicle in which  
21 your sister is standing in front of, the same  
22 vehicle that she was driving at the end of  
23 October of 2005?

24 A. Yes, it is.

25 Q. You mentioned that Teresa was involved in the

1           photography business; can you tell us about that  
2           a little bit?

3       A.    Yeah, through college she developed a passion for  
4           photography and, hence, why she declared that as  
5           her major. I would say her sophomore and junior  
6           year she worked at Bay Park Square Mall in Green  
7           Bay at Picture People taking photos of children,  
8           mainly families.

9                       After she got done doing that, during  
10           her last semester at Wisconsin, Green Bay, she  
11           started this internship with Tom Pearce of Pearce  
12           Photography in Green Bay, doing many of the same  
13           things, taking pictures of children, families,  
14           some, and also doing weddings on the weekends.  
15           So she continued working with him and then later  
16           on in 2002, she started her business, which she  
17           named Photography by Teresa, which continued up  
18           until Halloween of 2005.

19       Q.   Now, you indicated that you are familiar that at  
20           least one of her clients was *Auto Trader*  
21           *Magazine*; is that what you told us?

22       A.    Yes, that's correct. She in, I think it was  
23           October of 2004, she started working for *Auto*  
24           *Trader Magazine* as a way to supplement her income  
25           for her professional business. Since she was

1           just starting out with her own business, she  
2           wouldn't always have clients. So. Yeah, just as  
3           a way to have some steady income, she got this  
4           job with the *Auto Trader Magazine* to take  
5           pictures of vehicles in people's yards, that they  
6           were selling themselves.

7       Q.   First photo I'm showing you has been marked as  
8           Exhibit No. 7, can you tell us what that is,  
9           please?

10      A.   Exhibit No. 7 is Canon PowerShot A310; it's the  
11           box for the Canon camera. It's not the camera  
12           itself.

13      Q.   And, once again, were you familiar that that was  
14           one of the cameras that Teresa had used in her  
15           employment?

16      A.   Yes, I am, in her employment with *Auto Trader*,  
17           yes.

18      Q.   The other exhibit, I think it was Exhibit No. 6;  
19           is that correct?

20      A.   That's correct.

21      Q.   Can you tell me what that is, please?

22      A.   It's a box for a Palm 1 Zire 31 palm pilot.

23      Q.   And, once again, the large screen, does that  
24           accurately depict the box, again, recovered from  
25           your sister's home, the box that she saved for



1 her palm pilot?

2 A. Yes, it does.

3 Q. Was your sister kind of a pack rat; did she save

4 this kind of stuff?

5 A. Having gone through her stuff, yeah, she saved a

6 lot of stuff, yes.

7 Q. Was your sister married?

8 A. No, she's not.

9 Q. Who did she live with?

10 A. She lived with a friend of hers from high school,

11 named Scott Bloedorn. He lived in the upstairs

12 of the apartment -- or of the house she was

13 renting from my parents.

14 Q. How close was this to your parents' house?

15 A. Down the road a short ways, eighth mile, roughly

16 quarter mile. Not too far.

17 Q. Okay. Mike, did you ever have an opportunity to

18 see or talk with your sister as she either went

19 to work for the *Auto Trader Magazine* or as she

20 went to work at her own studio?

21 A. As she went there?

22 Q. Yes. In other words, were you familiar with how

23 she dressed to go to work?

24 A. Yes.

25 Q. Can you tell us about that.

1 A. She would always dress professionally, especially  
2 when she was going to her professional  
3 photography business, you know, black pants, a  
4 nice shirt. And if she happened to be doing Auto  
5 Trader that same day, she would go in those same  
6 clothes.

7 But if it was -- if she wasn't going to  
8 her job that day, she would dress comfortably,  
9 not necessarily in professional clothes, but nice  
10 clothes nonetheless. Might be a nice pair of  
11 jeans and a nice shirt or, you know, maybe khakis  
12 and a shirt, sweatshirt.

13 Q. Mike, as long as we have the photos, again, what  
14 we're looking at here, that's a picture -- which  
15 picture is that, No. 6?

16 A. That is Exhibit No. 6.

17 Q. We're going to have the actual exhibit marked so  
18 that we don't just have a photo of it?

19 ATTORNEY KRATZ: Janet, is that going to be  
20 No. 8?

21 THE CLERK: Yes.

22 (Exhibit No. 8 marked for identification.)

23 ATTORNEY KRATZ: Mr. Wiegert, could you  
24 provide that to the witness.

25 Q. (By Attorney Kratz) - Mr. Halbach, we're showing

1           you what's marked for identification as Exhibit  
2           No. 8; can you show the jury and tell them what  
3           that is, please?

4       A.    This is the same box as in the Exhibit No. 6,  
5           it's the box for Teresa's Palm 1 Zire 31 palm  
6           pilot.

7       Q.    And if I'm not mistaken, Exhibit No. 7, I think,  
8           was the box for the Canon PowerShot A310; is that  
9           right?

10      A.    That's correct.

11      Q.    We're going to have that box, actually, marked  
12           for identification as Exhibit No. 9.

13           (Exhibit No. 9 marked for identification.)

14      Q.    Once, again, Mr. Wiegert will be providing that  
15           to you. If you could show it to the jury and  
16           tell them what Exhibit No. 9 is, please?

17      A.    Exhibit No. 9 is the box for the Canon PowerShot,  
18           the A310, that Teresa used for her *Auto Trader*  
19           job.

20      Q.    Once again, after your sister's disappearance and  
21           after investigators began contacting you,  
22           specifically, and your family, these items were  
23           found in her personal effects and turned over; is  
24           that right?

25      A.    That's correct.



1 Q. Can you tell me who Pam Sturm is?

2 A. Pam Sturm, to me, would be my first cousin once

3 removed. She would be my grandma's sister's

4 daughter.

5 Q. Okay. The involvement of Pam and her daughter,

6 Nikole, after your sister was missing, could you

7 describe that for the jury?

8 A. You said her involvement?

9 Q. Yes.

10 A. Pam Sturm was the person who ended up finding

11 Teresa's vehicle on the Avery salvage yard. I

12 recall coming home that day, after I had been

13 with my brother driving, in her -- being inside

14 my parents' house crying and my mom telling me

15 that we found the vehicle -- or Pam found the

16 vehicle, Pam and her daughter, Nikole. So, I

17 guess that would be her involvement.

18 Q. All right. Let's go back just a little bit,

19 Mike, if we can. After your mom reported your

20 sister missing on the 3rd of November, how was it

21 that you were informed of that?

22 A. On Thursday, November 3rd, I was working. I got

23 a call from my mom that afternoon at about 2:00

24 or 2:30 wondering if I knew where -- or if I had

25 talked to my sister in the previous, you know,

1           since Sunday. And I said that I hadn't.

2                       And so I went on to call one of Teresa's  
3           good friends at her work and asked her if she had  
4           known where Teresa could be. Because it was  
5           completely unlike her to go somewhere without  
6           telling anyone, especially a family member, a  
7           good friend, her roommate, or her boss.

8                       So, I guess after we made those calls it  
9           became very evident to me that something was  
10          seriously wrong and I expressed that to my mom.  
11          Then shortly after -- and she was, you know, she  
12          was in agreement, obviously; she knew something  
13          was wrong, just like everyone else did.

14       Q.   Did the family ask for some assistance and did  
15             you receive it from some of Teresa's friends  
16             regarding searching for her?

17       A.   In searching for her we, you know, all we had to  
18             do was make a couple phone calls to some of  
19             Teresa's friends and they would call numerous  
20             other people. We needed help passing -- passing  
21             out posters on Friday, November 4th and also  
22             doing searches by car on Saturday, the 5th and  
23             doing searches by foot a few days following that.  
24             So, whenever we needed help, we had help from  
25             Teresa's friends, family members, community

1 members. Anyone who wanted to help, who had  
2 time, would help us out in searching for Teresa.

3 Q. Who is Ryan Hillegas?

4 A. Ryan Hillegas is -- he was Teresa's ex-boyfriend.  
5 They were together a few years and then were off  
6 a few years once they went to college. And he,  
7 basically, organized most or probably all the  
8 search efforts that we did for Teresa. Him,  
9 along with Scott Bloedorn, did the majority of  
10 getting people together and telling people where  
11 to go to search for Teresa.

12 Q. I ask you to refer back to this photo, can you  
13 tell me what exhibit that is, again?

14 A. Exhibit No. 5.

15 Q. Okay. I can see by your sister's physical  
16 stature, but if you can just verify for us, was  
17 Teresa in good physical condition?

18 A. Yes, she was. She had a -- she went to a gym. I  
19 don't know how regularly, but she had a  
20 membership at a gym and was -- seemed physically  
21 fit, yes.

22 Q. Mike, I think you talked about, on the 3rd,  
23 meeting with your family, and on the 4th, really,  
24 the citizen efforts for Teresa's search kind of  
25 ramped up; but can give you us any more details



1 about that?

2 A. Yeah, on the -- Well, the day we reported Teresa  
3 missing, that Thursday, we had got a call from a  
4 man named Jay Breyer who offered his services at  
5 Youth Educated in Safety, which is a missing  
6 persons organization. He offered to make copies  
7 and make up a missing persons poster.

8 So we took him up on that offer that  
9 night, finalized the poster and then the  
10 following afternoon we had got copies made. He  
11 had made the copies and around 2:00 or 2:30 in  
12 the afternoon was when we were meeting with  
13 whoever had the time and the vehicle to drive  
14 across all of northeast Wisconsin to put up these  
15 posters, which basically said, you know, missing  
16 person, Teresa Halbach, height, weight, what she  
17 was wearing that day. So that's what happened on  
18 Friday afternoon.

19 Q. Mike, Mr. Fallon is going to hand you what's been  
20 marked for identification as Exhibit No. 10. I'm  
21 going to put it up on the screen for the jurors.  
22 Can you tell us what we're looking at, please?

23 A. That's the missing persons poster that Jay Breyer  
24 helped us make that we put up on the 3rd -- or  
25 the Friday, the 5th -- or, yeah -- the 4th,

1 Friday, the 4th. That's right.

2 Q. Indicates that your sister was 5 feet 6 inches

3 tall, 135 pounds; is that approximately accurate?

4 A. Yes.

5 Q. Now, after -- First of all, let me ask you

6 where -- where these posters distributed, if you

7 recall?

8 A. It would have been a very large area of northeast

9 Wisconsin including Appleton, Green Bay,

10 Manitowoc, Chilton, south towards Milwaukee, east

11 to the Lakeshore. And I recall semi-drivers

12 wanting to, you know, stop at the house, pick up

13 some fliers because they were concerned as well.

14 And they were going to Madison, Milwaukee and

15 further. So they had volunteered to put up

16 posters for us on their routes.

17 Q. Mr. Halbach, let me ask you this, did you try to

18 recreate, from the 31st of October, routes that

19 Teresa may have taken?

20 A. Yes. Yeah, so those were our main areas we

21 wanted to put up these posters, as well as to

22 search by vehicle and by foot, because we could

23 trace her whereabouts to, you know, a certain

24 location. That's where you want to focus most of

25 your efforts. So that's what we did.

1 Q. All right. Perhaps you answered this and I  
2 apologize if you did, but do you recall how many  
3 thousands of these posters you distributed?

4 A. I guess I can't recall specifically, but it would  
5 be, you know, probably a couple thousand.

6 Q. All right. Now, we're going to hear from Mr.  
7 Hillegas a little bit later in the trial  
8 regarding the specifics of the missing persons  
9 investigations, but did those search efforts  
10 include actually walking around or looking in  
11 roadways or ditches?

12 A. Yeah, that Saturday morning, the 5th, that  
13 morning, it was about 7:00 a.m., a group of  
14 volunteers met at my sister's house and we set  
15 out by vehicle to -- to basically trace the  
16 routes that she may have taken that Monday.

17 And certain people were given different  
18 areas, not necessarily the places she definitely  
19 traveled, but perhaps she drove down to Milwaukee  
20 to meet with someone, or drove up to Door County,  
21 so we had people driving in those areas as well.  
22 But myself, specifically, I went with my brother  
23 to the places where we -- and the routes that we  
24 thought for sure she could have taken, you know.  
25 Since we were her brothers, we can get it in her



1 mind better than anyone. So we drove over there.

2 I can recall specifically driving down  
3 Highway 147, getting out, looking down  
4 embankments where, if you would drive by  
5 casually, you wouldn't be able to see down there.  
6 So, we thought maybe she had gotten in an  
7 automobile accident, was trapped, you know,  
8 unconscious, whatever it may be. So we wanted to  
9 do what we could to eliminate that possibility.

10 So, you know, we looked wherever we  
11 could, drove around as many roads as we could,  
12 side roads, back roads, whatever, just looking  
13 for signs of her vehicle or Teresa herself.

14 Q. And until that call came, or until the news came  
15 on the 5th, that Teresa's vehicle had been found,  
16 was that your hope that there had been some  
17 accident or something?

18 A. Yeah, I mean, from the start I think it's just  
19 the way my family is, is we're strong,  
20 optimistic, also, you know, realistic too. But,  
21 yeah, we hoped to find some sign and we hoped we  
22 would find Teresa alive.

23 So when we found her vehicle, it was  
24 good because we were getting closer to finding  
25 Teresa. So we were happy to find the vehicle,

1 but we didn't find Teresa, so that half the goal  
2 was missing. We didn't accomplish half the goal  
3 when we found the vehicle.

4 Q. All right. Mike, I had mentioned at the early  
5 stages of the presentation of this case, in fact,  
6 to the jury, about meetings that you had with law  
7 enforcement, meetings you had with me,  
8 individually, throughout this case. Have you  
9 been kept informed as to the developments and the  
10 evidence, not just that was found, but the  
11 evidence that was going to be presented at this  
12 case?

13 A. Yes, we had always -- were informed in advance of  
14 anything, whether it be a news conference,  
15 whether it be information that would be submitted  
16 to the courthouse and available to the media,  
17 shortly thereafter. We would always be aware of  
18 what was going to be said in the media or what  
19 not. And in advance of every court hearing, we  
20 have been kept informed of what we would hear  
21 that day, just so there were no surprises; so we  
22 could prepare ourselves emotionally for those  
23 events.

24 Q. That includes the physical evidence that is going  
25 to be presented at this trial?

1 A. Yes, that's correct.

2 Q. The last question I have, Mike, and I'm going to  
3 apologize in advance as to the insensitivity of  
4 it, but at any time after the 31st of October,  
5 had you ever seen, spoken from, or heard from  
6 your sister, Teresa Halbach?

7 A. No, I have not.

8 ATTORNEY KRATZ: I would move the admission  
9 of Exhibit 1 through 10.

10 THE COURT: Any objection?

11 ATTORNEY STRANG: No objection at all.

12 THE COURT: Those exhibits are admitted.

13 ATTORNEY KRATZ: No further questions.

14 THE COURT: Mr. Strang.

15 ATTORNEY STRANG: Is this working now?

16 THE COURT: Yes, it is.

17 ATTORNEY STRANG: All right.

18 CROSS-EXAMINATION

19 BY ATTORNEY STRANG:

20 Q. Thanks for coming. And I don't have a lot of  
21 questions. I don't want to make this any harder  
22 a day for you than it's already been. But, we  
23 have established that Teresa was 5 foot 6, about  
24 135 pounds, back in October of 2005?

25 A. Yes.



1 Q. Give or take. You said she was fit. She was an  
2 athlete to some extent?

3 A. To some extent, she played a little in high  
4 school, but I know she would exercise at our home  
5 as well.

6 Q. Sure. Little volleyball, was that her sport, or  
7 basketball, or both?

8 A. Well, she coached her sister's 7th grade  
9 volleyball team, so there was definitely an  
10 interest there.

11 Q. Was that her sport in high school?

12 A. She played some. I don't think she played past  
13 her sophomore year, but ...

14 Q. Okay. But, you know, I mean, somebody who was at  
15 least reasonably athletic and fit?

16 A. Right.

17 Q. In addition to working out at home, she belonged  
18 to some private gym somewhere?

19 A. Correct.

20 Q. Okay. You guys were all raised on a dairy farm;  
21 did you grow up there?

22 A. Yeah, for the most part, yeah.

23 Q. Working a dairy farm?

24 A. Yes.

25 Q. And when you say for the most part, is that not

1           when you were a little bitty boy, or ...

2   A.   Up until I was eight years old on, I was on the

3       dairy farm, yes.

4   Q.   Okay. Sure. And you, the kids, helped out with

5       chores, I assume?

6   A.   Correct.

7   Q.   Like all farm kids have to?

8   A.   Yes.

9   Q.   That included Teresa?

10  A.   She didn't help out in the barn as much as she

11       helped out in the house, babysitting for our

12       sisters and taking care of chores in the house.

13  Q.   She did get acquainted with milking, though, at

14       some point, I assume?

15  A.   Very seldomly.

16  Q.   Was that mostly the boys?

17  A.   Yeah. Yes.

18  Q.   She was someone who had a good sense of humor?

19  A.   Yes.

20  Q.   Also could stand up for herself, though?

21  A.   Absolutely.

22  Q.   Little bit feisty in a good way?

23  A.   Yes.

24  Q.   Yeah, and I don't mean in a bad way, but I mean

25       she was personable?

1 A. Yes, independent.

2 Q. And your family, I take -- I take it is

3 tightknit, your immediate family?

4 A. Yes.

5 Q. By that, I mean Tom and Karen, your folks, or you

6 and Tim, Katie and Kelly and Teresa?

7 A. Yes.

8 Q. But you guys also have a pretty good extended

9 family in this area, as I understand it?

10 A. Yes, we do.

11 Q. Has the family been in Calumet County or this

12 area for generations?

13 A. Yes. Yeah.

14 Q. Okay. I mean, in other words, you know Pam

15 Sturm, you were saying is a first cousin once

16 removed?

17 A. Correct.

18 Q. I couldn't possibly tell you how you got there

19 but, I mean, you have got all kinds of cousins,

20 aunts, uncles?

21 A. Yes.

22 Q. That kind of thing, in the area?

23 A. Yes.

24 Q. So, in addition to Teresa's friends, you had a

25 lot of family to pull on when looking for her?



1 A. Correct.

2 Q. This -- this effort to retrace her steps on  
3 October 31, did that -- did that get going,  
4 Mr. Halbach, pretty much right away, the evening  
5 that you all reported her missing.

6 A. Yeah. Yeah, we had talked about where we knew  
7 Teresa was on the 31st; what appointments she  
8 had, where she was supposed to be before then,  
9 you know, where she was supposed to be after then  
10 and the days following, as well.

11 Q. Okay. On the 31st, were you able to nail down  
12 appointments?

13 A. Yes.

14 Q. So, I mean, do you think it was that Thursday  
15 night that you figured out that Avery Auto  
16 Salvage was one of the appointments; if you  
17 remember?

18 A. I don't remember exactly if it was that night, or  
19 if it was the next day, or -- it was one of those  
20 two.

21 Q. Either Thursday night or Friday morning, the 4th?

22 A. Yes.

23 Q. Okay. And at some point pretty quickly, the  
24 media all got interested in this; am I recalling  
25 that correctly?

1 A. Yes.

2 Q. Was it Friday, already on the TV they were  
3 talking about the Avery Auto Salvage or flying  
4 over it, that kind of thing?

5 A. I don't recall, specifically, myself, you know,  
6 seeing the media involvements saying Steven  
7 Avery, but I know that they reported on the  
8 missing persons case involving my sister, that  
9 Thursday night.

10 Q. Oh, right away Thursday night?

11 A. Correct.

12 Q. And then Friday and I know by Saturday, there was  
13 a lot of media coverage?

14 A. Yes.

15 Q. Not that you were watching but, I mean, you were  
16 out -- that you were just sort of aware of it?

17 A. Yes.

18 Q. Did you -- Did you have access to her computer  
19 passwords or account information for, like, her  
20 cell phone, for example, or bills, that kind of  
21 thing?

22 A. Cell phone, yes; computer password, yes.

23 Q. She had shared that with you at some time  
24 earlier?

25 A. I did business work for her, website graphics,

1           so --

2   Q.    Oh.

3   A.    I, yeah, I just knew it through that.

4   Q.    So, you knew it through that --

5   A.    Correct.

6   Q.    -- because you would have a reason to get on to

7           her computer to help her with her website?

8   A.    Well, I didn't have to go on her computer, but I

9           had to connect to a web host --

10   Q.    Sure.

11   A.    -- just to put stuff for her website, so.

12   Q.    Okay. I'm nodding like I know what you are

13           talking about and I really don't. But the point

14           is you had -- you had access to her password

15           information so you could check her cell phone

16           bill?

17   A.    I never did. I don't know -- So since I never

18           did, I wouldn't know if I had the right password

19           for her cell phone bill. I knew --

20   Q.    Okay.

21   A.    -- her password for her voice mail.

22   Q.    And that's where I was going. I think -- I think

23           on Thursday evening, November 3, somebody was

24           able to get at her cell phone records on the

25           computer, but that was not you?



1 A. I don't think on her computer, no.  
2 Q. Okay. And you didn't have her voice mail?  
3 A. I said I did -- did have her voice mail password.  
4 Q. You did have her voice mail password. Okay. Did  
5 you check voice mails?  
6 A. I did.  
7 Q. Do you remember when you did that?  
8 A. It was probably Thursday evening, early evening.  
9 Q. After your mom --  
10 A. Yes.  
11 Q. -- had --  
12 A. Yes.  
13 Q. -- filed a missing persons report?  
14 A. Yes.  
15 Q. Okay. So I take it you were at work earlier that  
16 day?  
17 A. Correct.  
18 Q. And the missing person report was sort of at the  
19 end of the day, 5:00 or something?  
20 A. Correct.  
21 Q. Were you familiar enough with Teresa Halbach's  
22 everyday stuff to know what -- what she carried  
23 keys to?  
24 A. I mean, yes, I think I would have an idea of what  
25 keys she would have, yes.

1 Q. Okay. Let's just -- Let's start with the house  
2 that she and Scott Bloedorn were sharing, this  
3 was the older farmhouse?  
4 A. At one point it was a farmhouse.  
5 Q. Okay. Is it actually on the Halbach farm or just  
6 next door or ...  
7 A. It's next door, my parent's home, the house and  
8 the land.  
9 Q. Okay. But it --  
10 A. It's not -- It doesn't share a driveway at all.  
11 Q. Yeah.  
12 A. It has its own driveway.  
13 Q. Separate parcel, but next door.  
14 A. Correct.  
15 Q. Can you see the two houses from one another?  
16 A. You have to look through a line of evergreens and  
17 there's a big shed a little further back, but you  
18 can see it through the trees, yes.  
19 Q. But they are next door neighbors, essentially;  
20 although it's a rural area?  
21 A. Correct.  
22 Q. Okay. And I take it there was -- there was a  
23 house key to the house? Go ahead.  
24 A. Yes, there was.  
25 Q. Do you know whether there was a separate garage

1 key?

2 A. I believe that's correct.

3 Q. Okay.

4 A. I would imagine there was.

5 Q. And do you have -- do you have any way of knowing

6 whether Teresa would also have had keys to your

7 folk's house?

8 A. I don't think she did.

9 Q. You told us the Toyota was the only car she was

10 driving, so she didn't have keys to other cars,

11 as far as you know?

12 A. Correct, she didn't, no other keys.

13 Q. Swipe card for the gym?

14 A. I can't recall if she specifically had a swipe

15 card. She must have had something to get into

16 the gym. I forget what it would have been.

17 Q. Okay. And if you know, was she someone with,

18 like, a lot of people, I guess, who would have

19 had some doodads, or charms, or that kind of

20 thing on the key chain?

21 A. I don't ever recall her having any of that, a lot

22 of fancy stuff on her key chain, no.

23 Q. Okay. The gathering at -- was at grandpa's house

24 on Sunday, October 30?

25 A. That's correct.



1 Q. For his -- for his birthday?

2 A. Correct.

3 Q. And then, I think -- Were there, if you know, did

4 she -- had she had plans to go to a Halloween

5 party the Saturday night right before that?

6 A. I believe so. Earlier in the evening she was

7 helping me with a wedding, shooting a wedding

8 video. After that I think she would have went to

9 a Halloween party. I believe that's correct.

10 Q. Okay. Saturday night, October 29?

11 A. Right. Yeah, it would have been later on in the

12 night.

13 Q. Let's just sort of help the jury with that.

14 You're -- You're a videographer. You're in the

15 video business?

16 A. Correct.

17 Q. So not only would she be a photographer for

18 weddings, but you also videotape weddings as a

19 business, or a side business at times.

20 A. Well, that was the only one that I had. That was

21 my first time and I haven't done one since then.

22 Q. Okay. But the two of you were helping each other

23 out with that one?

24 A. Right.

25 Q. I didn't notice one in the picture, whichever

1           number it is, where Teresa is standing next to  
2           her Toyota when she has got her camera; I didn't  
3           notice there, but did she ordinarily carry a  
4           purse?

5       A.    I don't recall her having a purse -- well -- I  
6           can't say for sure.

7       Q.    That's okay. That's all right. How about, I  
8           mean, did you -- did you notice, was she a  
9           jewelry person, bracelets, necklaces?

10      A.    Not a whole lot of jewelry, really, at all. I  
11           don't -- maybe a couple of rings.

12      Q.    Not bracelets, though, or necklaces.

13      A.    Probably not too often.

14      Q.    How about earrings?

15      A.    I don't recall her wearing earrings very often  
16           either.

17                   ATTORNEY STRANG: That's all I have. Thank  
18           you.

19                   THE COURT: Mr. Kratz, any redirect?

20                   ATTORNEY KRATZ: Not for this witness,  
21           Judge. Thank you.

22                   THE COURT: Very well, you are excused.

23                   ATTORNEY KRATZ: Next witness, Judge?

24                   THE COURT: You may call your next witness.

25                   ATTORNEY KRATZ: Tom Pearce.

1 THE CLERK: Raise your right hand, please.

2 THOMAS PEARCE, called as a witness  
3 herein, having been first duly sworn, was  
4 examined and testified as follows:

5 THE CLERK: Please be seated.

6 THE COURT: You may proceed, Mr. Kratz.

7 THE CLERK: Please state your name and  
8 spell your last name for the record.

9 THE WITNESS: Thomas Pearce, P-e-a-r-c-e.

10 DIRECT EXAMINATION

11 BY ATTORNEY KRATZ:

12 Q. Mr. Pearce, how are you employed?

13 A. I'm sorry?

14 Q. How are you employed?

15 A. I'm self-employed.

16 Q. Can you tell the jury in what capacity?

17 A. I'm a professional photographer. I have my own  
18 studio.

19 Q. Did you know a young woman by the name of Teresa  
20 Halbach?

21 A. Oh, yes, I did.

22 Q. Can you tell the jury how you first became  
23 knowledgeable about Ms Halbach?

24 A. It was in January of 202 (sic), through an  
25 internship program through the university. She



1       approached me to do an internship through the  
2       university and I took her on as an intern. And  
3       from there on, through the internship program  
4       which ends when she graduates, I saw that she was  
5       an exceptional person in photography and for her  
6       age, that I asked her to stay on and work through  
7       my studio or with me doing weddings and  
8       portraits.

9       Q.   What university was this?

10      A.   University of Green Bay.

11      Q.   I think you mentioned that you had seen something  
12       in her that actually made you offer her a job;  
13       can you tell us what that was?

14      A.   Well, you know, in this field, you see -- and I  
15       have worked with other interns and some of them  
16       do have the drive, the passion, the want and  
17       knowing that -- Being a photographer, a lot of  
18       people think it's very easy. It's a lot of  
19       hours. It's a lot of dedicated work.

20               And she had that and I haven't seen that  
21       in many people in a lot of years. And I was  
22       impressed with that. She knew the  
23       responsibility, the sacrifices it took. And she  
24       was eager to learn. She was consistently asking  
25       questions and from -- doing different projects

1 and so on. So I was very impressed with her and  
2 that's why I asked her to stay on.

3 Q. Was she technically good at what she did?

4 A. Yes. The university -- I also went to school,  
5 but not here in Green Bay. They teach you the  
6 book. And how should I say, you should know the  
7 rules before you know how to break them. And  
8 that's part of out in the field.

9 And that's why I think the internship  
10 program is a good program. Because it has -- In  
11 many different fields, people come out and see  
12 what it's really like in everyday life and not so  
13 much how the book says it. But you have got to  
14 know the book, but you have to break the rules  
15 when you are out there.

16 Q. After offering Teresa a job, or employment  
17 through your studio; how long did that last and  
18 did that evolve into some other business  
19 relationship.

20 A. As far as working for me, or I should say really  
21 with me, she was a go-getter, like I said, she  
22 had that passion. And I looked and as a -- when  
23 you are a staff photographer for someone, you  
24 have got to abide by their ways of doing things,  
25 their policies, because you are working for them,

1 so you have to do stuff their way.

2 Well, I didn't want to hold her back  
3 because she was incredibly involved and had that  
4 passion for this. So, on the other hand, I  
5 didn't want to not lose her, but have her go out  
6 and go, hit and miss, hit and miss, which a lot  
7 of young photographers do.

8 I had a full studio, plenty of room for  
9 both of us. So we sat down and we talked and we  
10 did something that no one has done before. She  
11 started her own business, not be in competition,  
12 but complimenting each other.

13 So she worked out of my studio; she used  
14 all the facilities of the studio, but she ran her  
15 own business through that -- through my studio.  
16 Meanwhile, we cooperated in doing advertising  
17 together, promotions, learning, helping one  
18 another. I would book weddings for her, she  
19 would book for me. There was never any  
20 competition between us. And it was something  
21 unusual, but it worked out very well for both of  
22 us.

23 Q. Did she call upon you for advice?

24 A. Many times, yes. And it was, basically, not only  
25 the technical end of it, the photography end of



1 it, but on how to run a business, what is needed  
2 behind the scenes. And that's where in this  
3 business a lot of the people that get into the  
4 photography business, they know photography but  
5 they don't know the business end of it.

6 So, yes, I did mentor her in a lot of  
7 different areas. Thirty-eight years of  
8 experience, and I wanted to share that with her,  
9 because I could see that she was, basically, like  
10 me when I came out of college -- school. I was  
11 eager. I had the passion. We had a lot of  
12 similarities. I graduated from -- with a degree  
13 in photography.

14 I was the -- also worked the photo  
15 school newspaper and she did. And I worked at  
16 many different studios before I moved up here in  
17 the Green Bay market. So we had that same  
18 background. And I think it's a duty for any of  
19 us to share what we have learned, our experiences  
20 with someone up and coming.

21 Q. I think, Mr. Pearce, you talked about weddings  
22 and portraits and the like, that was -- or at  
23 the -- by the fall of 2005, had Teresa been  
24 developing a particular niche within the  
25 photography business?

1 ATTORNEY STRANG: Your Honor, I wonder if  
2 we could approach the side bar for just a moment.

3 THE COURT: Sure.

4 (Side bar taken.)

5 Q. (By Attorney Kratz)~ Mr. Pearce, could you  
6 discuss whether or not Teresa had developed a  
7 particular niche within the photography business?

8 A. I think if there was any one area, it was  
9 children. She loved to photograph children of  
10 all ages. She had a knack for that. But as far  
11 as a niche, I mean, we all -- that would be her  
12 certain niche, but she was well versed at doing  
13 weddings, and good at doing weddings and  
14 portraits and family. But her love was doing  
15 children, from all ages of children.

16 Q. Now, as part of that business, as part of  
17 Teresa's photography business, were you aware of  
18 a particular client that she serviced, which was  
19 *Auto Trader Magazine*?

20 A. There was a time when she had told me about, that  
21 she had picked up a client, which was *Auto*  
22 *Trader*, and she would be running around taking  
23 pictures of cars, yes, I was aware of that.

24 Q. All right. And had she ever asked your opinion  
25 or advice about working for *Auto Trader* or that

1 kind of photography?

2 A. I don't think she asked my advice, but I think I  
3 may have suggested something to her. Her  
4 photography business was picking up for studio  
5 wise a lot. And it seemed like when she -- It  
6 seemed when she first started with *Auto Trader*  
7 was just on Mondays. Mondays we're typically  
8 closed in the industry, because we worked a lot  
9 of Saturdays.

10 So, it seemed all of a sudden that she  
11 not only had to do *Auto Trader* on Monday, but  
12 possibly Wednesdays and some Saturdays. She was  
13 constantly telling me that she was running doing  
14 *Auto Trader*. And I could see that she was  
15 starting to burn the candle at both ends.

16 And at one time, I sat her down and I  
17 said, gee, you know, you are running here, you  
18 are running here, you're running and I didn't  
19 want her to get to a burn out point. So I just  
20 asked her, how is *Auto Trader*, is it a good  
21 client, blah, blah, blah.

22 We never talked on how much she was  
23 making, or whatever. That -- that was never  
24 discussed. I mean, that was where we drew the  
25 line in our business end of it, but I was more



1 concerned about her well being of running, of the  
2 constant running. She was constantly running and  
3 that's what she enjoyed. So that was the only  
4 time I really had any discussion with her about  
5 Auto Trader.

6 Q. Let me ask you this, Mr. Pearce, are you familiar  
7 with the defendant, Steven Avery?

8 A. As far as familiar with him, as far as what?

9 Q. Have you heard the name before the 31st of  
10 October?

11 A. Just one time and I think it was the spring, late  
12 spring or early summer, Teresa had mentioned to  
13 me, she said kind of matter-of-factly, you will  
14 never guess whose cars I was taking pictures of.  
15 And she told me the name and it didn't ring a  
16 bell.

17 She actually had to remind me or say,  
18 oh, that was the guy that was wrongfully  
19 convicted and so on and so forth. And we had a  
20 little discussion and then I remembered the case  
21 and so on and so. We talked about -- a little  
22 bit about her being out and about, running around  
23 all over the county, by herself, and her safety  
24 and so on and so forth. And that was basically  
25 it. That was the only time she ever mentioned it

1 to me.

2 Q. All right. We have learned that Teresa Halbach  
3 drove a 1999 Toyota RAV4 SUV, picture's in front  
4 of you. Would you look on the back; what exhibit  
5 number is that?

6 A. 05 CF 381, Exhibit 5.

7 Q. All right. Have you ever seen that vehicle  
8 before?

9 A. Oh, sure. She was working with me when she  
10 purchased it. Actually, I took that picture.  
11 And she was happy as a lark to have her first  
12 car. She used to have a beater that was an older  
13 car, not a beater. And now this allowed her  
14 freedom to go. Yeah, she was very happy with  
15 that car.

16 Q. Turning now to a more serious series of topics,  
17 Mr. Pearce, sometime after the 31st of October,  
18 after that Monday, after the Halloween; did you  
19 see Teresa the next day at work, Tuesday, the 1st  
20 of November?

21 A. No, like I said earlier, Mondays we were closed.  
22 Actually, the last time I saw Teresa was  
23 Saturday, before the 31st. When Tuesday came,  
24 she had her own hours because she had her own  
25 business. Since I'm there like 60 hours a week;

1 she may have been there one week 20 hours. All  
2 depended on her schedule and so on. But she  
3 always kept me informed of was she going to be  
4 gone for a day; did she have appointments; was  
5 she going to take off for a weekend; etc. She  
6 was very responsible in that sense, extremely  
7 responsible for a young person.

8 Well, Tuesday came and by noon she  
9 wasn't there. I didn't think too much, oh, okay,  
10 I know she was there Saturday working, did Auto  
11 Trader. So I'm going through my mind, well,  
12 what -- I knew Wednesday, because every Wednesday  
13 morning, she actually was one of the founders of  
14 a BMG Group, BMG marketing group, Business  
15 Marketing Group that meets once a week. Business  
16 leaders, they go over leads and what's going on  
17 in Green Bay and so on.

18 She was one of the founders and very  
19 active in it. She usually would come in, oh,  
20 about, sometimes 11:00, 11:30 on that Wednesday,  
21 religiously. Because she would be in town for  
22 that meeting. So Wednesday around noon, she  
23 didn't show up. I thought, okay, this is a  
24 little strange. I tried calling her and I got  
25 her cell phone, but her phone book and it was



1 full, where I couldn't even leave a message.

2 Q. Her voice mail?

3 A. Her voice mail box, that's it, yes, it was full.

4 I couldn't even leave a message. I thought this

5 was a little strange, because typically you get

6 right through to her. She was very good at

7 returning calls; very good at leaving messages

8 and letting me know. So kind of, well, maybe

9 she's sick, you know, with the flu, flu season,

10 covered up under the covers, turn the cell phone

11 off, just go and doing that.

12 Q. Sure.

13 A. So I thought, well, for sure she'll be in

14 Thursday. And I had called, a couple times, her

15 cell phone. So by Thursday, now, I haven't heard

16 from her.

17 Q. This is Thursday the 3rd of November.

18 A. Right. Yes.

19 Q. Okay. What did you do then?

20 A. I tried to call her again, same thing, with the

21 phone. Now, some of her work was coming in,

22 being shipped in to be processed. And I knew

23 that she knew, she kept track of that. So, if

24 she was out of town or sick, I think she would

25 have called me by this time. And I started

1 getting really, really worried.

2 I didn't know who to call, her friends,  
3 etcetera, so I think was around 1:00, somewhere  
4 in that time period. I called Karen, Teresa's  
5 mother, seeing if she knew. That was the only  
6 phone number I had, other than Teresa's. I  
7 didn't have any of her friend's. And talked to  
8 Karen about it. And she was going to call some  
9 of her friends, or she already had. And the next  
10 thing I know it was 10:00, on the news, I heard  
11 it was, officially, that Teresa was missing.

12 Q. Perhaps you can help us, Mr. Pearce. Are you  
13 familiar with use of digital cameras, digital  
14 film and how a digital camera can imprint or  
15 create an electronic signature on photos that are  
16 taken there from?

17 A. I'm not a real good expert on digital, but I know  
18 some of what the digital cameras do, if that's  
19 what you're --

20 Q. I'm going to direct you to some images and when  
21 you take the cursor for a computer over a digital  
22 image, as an example, this image gives the  
23 dimensions, gives the date the picture taken is  
24 10/10/05 at 3:18 p.m. Camera model, it indicates  
25 Canon PowerShot A310 to JPEG image and the size

1 of that. Are you familiar with the taking, or  
2 production of digital photography, that those  
3 kinds of details are provided right in the image  
4 itself? Do you understand the question?

5 A. Yes. Yes, sir. Absolutely true, they are.  
6 Unless you get a 10 or \$15 or \$20 digital camera,  
7 the nicer cameras, even the smaller ones, will do  
8 that automatically in their programing for that.

9 Q. All right. Same question I have asked another  
10 witness and I will ask you Mr. Pearce, after  
11 the -- well, really after the 29th of October,  
12 2005, had you ever heard or spoken to Teresa  
13 Halbach?

14 A. No.

15 ATTORNEY KRATZ: That's all I have for this  
16 witness, Judge. Thank you.

17 THE COURT: Mr. Strang.

18 CROSS-EXAMINATION

19 BY ATTORNEY STRANG:

20 Q. Mr. Pearce, the Teresa Halbach you knew was  
21 someone you described once as feisty?

22 A. Well, depends on how you mean feisty.

23 Q. How did you mean it?

24 A. Full of energy.

25 Q. Someone who was in good shape and could fight



1 back?

2 A. I would think so.

3 Q. She carried a cell phone regularly?

4 A. I'm sorry, I can't hear you.

5 Q. She carried a cell phone regularly?

6 A. As far as I know, yes, that was her life line.

7 Q. But that wasn't something she would hook on a

8 belt or do one of these things, she would keep it

9 in her purse?

10 A. Well, most of the time when I would see her, she

11 would have it out of her purse and on the

12 counter.

13 Q. If she were out somewhere, though, the cell phone

14 was always in her purse, I think you have said

15 before?

16 A. I couldn't answer that 100 percent. I would

17 think so. She was in her car, maybe it would be

18 on the driver's seat. I know it went with her

19 wherever she went.

20 Q. And when she was at Pearce Photography, she

21 frequently would leave the cell phone out on the

22 counter. If she was out somewhere else, it was

23 in her purse, typically, that was your experience

24 with her?

25 A. Well, I know when she was at work it was always

1 out in the open on the counter, just like this  
2 picture sitting here, because that was her  
3 business line. When she was out -- out of the  
4 studio, I really don't know what she did with her  
5 cell phone.

6 Q. I'm going to show you a report of an interview  
7 that you had with an agent named Alan Hunsader;  
8 do you remember talking with him?

9 A. Sure.

10 Q. I'm going to offer it as an exhibit, I'm just  
11 hoping it might refresh your recollection about  
12 the cell phone. I invite you to look at the last  
13 paragraph on that page. Just to yourself.

14 A. Yeah, I guess.

15 Q. Does that help --

16 A. Yeah.

17 Q. -- refresh your recollection about your  
18 experience with Teresa Halbach and her cell  
19 phone?

20 A. When we would shoot a wedding together she would  
21 have her cell phone in her purse. Through her --  
22 When -- When we would go to -- give an example,  
23 we did a lot of work in a park which was 5  
24 minutes away from us, doing weddings, even in her  
25 training time she would keep her cell phone in

1 her purse. That was my oversight.

2 Q. You described it as her lifeline just a few

3 minutes ago.

4 A. Right.

5 Q. Was that the only number you had for her?

6 A. Yes.

7 Q. You don't know whether she had a land line phone

8 in her home?

9 A. I don't think so.

10 Q. You were aware that she evidently shared her cell

11 phone number with *Auto Trader* customers.

12 A. I knew at one time she said to me that she was

13 able to give out her business cards to the *Auto*

14 *Trader*. So in that respect I guess, yeah,

15 because her cell phone number would be on that.

16 Q. And indeed there was -- there were at least a few

17 occasions on which you were aware that she was

18 getting calls on her cell phone from customers or

19 dissatisfied customers of *Auto Trader* and she

20 would refer those to the *Auto Trader* office?

21 A. She mentioned to me a couple times that people

22 were calling her direct. They had a problem with

23 *Auto Trader*, or whatever the case may be.

24 Q. She said, don't bother me, call the *Auto Trader*

25 office?



1 A. Yes, sir.

2 Q. What -- What day was it, as best as you can  
3 recall, and I'm going to chase the time to, if  
4 you can, that you first called Teresa's cell  
5 phone the week of October 31 and found the voice  
6 mailbox full?

7 A. I think it would have been Tuesday afternoon and  
8 that -- somewhere in that time period.

9 Q. And the voice mail box was full?

10 A. Yes.

11 Q. Okay. And then Wednesday, before this marketing  
12 group luncheon, after she didn't show up; did you  
13 try that again?

14 A. Yes, sir.

15 Q. Still full voice mailbox?

16 A. Still full.

17 Q. And if I understood you correctly, you said you  
18 tried again Thursday?

19 A. Mm-hmm, yes, sir.

20 Q. So full voice mailbox Tuesday, Wednesday and  
21 Thursday?

22 A. I believe, I'm almost positive all three times,  
23 because I thought that was very unusual.

24 Q. Starting Tuesday, mid-afternoon.

25 A. Yes, sir.

1 Q. This studio, it was your studio, but she was  
2 sharing space, if I understood you --  
3 A. Yes.  
4 Q. -- correctly?  
5 A. Yes.  
6 Q. Keys, keys to the studio, one, more than one?  
7 A. She had a set of keys, yes, sir.  
8 Q. What is a set of keys, meaning to the studio?  
9 A. Well, as myself, we always carry two, so that --  
10 I mean, it's the same key, but in case we drop  
11 it. And Teresa had a funny thing about not  
12 losing her keys, but misplacing her keys all the  
13 time. So I gave her two, one to put on her key  
14 chain and one to put in her purse somewhere, so  
15 she always has it. So, two keys.  
16 Q. If she mislaid the key chain?  
17 A. Yes.  
18 Q. Okay. So the office key was one of the keys on  
19 that key chain?  
20 A. I would think so.  
21 Q. Is it a key chain you saw?  
22 A. I'm sorry?  
23 Q. Is it a key chain that you ever saw?  
24 A. Laying on the counter or something, yes.  
25 Q. Okay. It had a number of keys on it?

1 A. I would think maybe three or four.

2 Q. Okay. About three weeks before she disappeared,  
3 Teresa Halbach, you were aware, had been getting  
4 a lot of telephone calls that she was not  
5 answering on the cell phone?

6 A. Yes, sir.

7 Q. They would leave no message?

8 A. If you are referring to the same thing, I think,  
9 she was standing almost right next to me, in a  
10 day, and she got this phone call. And she looked  
11 at it and went, said, oh, not them again, or not  
12 him again, and just kind of forgot about it.

13 She looked a little upset, so I  
14 questioned her a little bit about this and she  
15 told me, just forget about it. Somebody keeps  
16 calling her all different hours, a nuisance call.  
17 And that was about two or three weeks and she had  
18 mentioned that she had been getting them for  
19 awhile and I had said, well, why don't you give  
20 me the number and I will call and find out  
21 instead of her dealing with it and she said, no,  
22 don't worry about it. But that's, I think, what  
23 you're talking about.

24 Q. Right. And whatever the number was that came up  
25 on the phone, she recognized it?



1 A. Yeah, she knew what it was, but she wouldn't let  
2 me know.

3 ATTORNEY STRANG: Thank you.

4 THE COURT: Any other questions, Mr. Kratz?

5 ATTORNEY KRATZ: Just one area of inquiry  
6 of Mr. Pearce.

7 REDIRECT EXAMINATION

8 BY ATTORNEY KRATZ:

9 Q. Mr. Pearce, would you have considered yourself as  
10 long -- or together with a mentor, being a friend  
11 of Teresa's?

12 A. A good friend and a good colleague, yes.

13 Q. In that regard, had you ever admonished or warned  
14 Teresa about her behavior, if she was alone with  
15 somebody in a home?

16 ATTORNEY STRANG: Relevance.

17 THE COURT: Mr. Kratz.

18 ATTORNEY KRATZ: Judge, it actually will be  
19 relevant to the false imprisonment charge. The  
20 issue of being restrained or confined. If  
21 admonished by an individual that that shouldn't  
22 occur, it goes to that particular element of that  
23 offense.

24 THE COURT: Mr. Strang.

25 ATTORNEY STRANG: I don't know that we

1           ought to be arguing the point here. I'm not at all  
2           convinced of the relevance.

3           THE COURT: I don't know about the  
4           relevance, but I think its beyond the scope of  
5           redirect. I'm going to sustain the objection.

6           ATTORNEY STRANG: We can't hear the Court.

7           THE COURT: It's beyond the scope of  
8           redirect. I'm sustaining the objection.

9           ATTORNEY KRATZ: That's all I have of  
10          Mr. Pearce then, Judge. Thank you.

11          THE COURT: You're excused.

12          ATTORNEY KRATZ: Could we approach just  
13          briefly, Judge.

14          THE COURT: Sure.

15                       (Side bar taken.)

16          THE COURT: For the benefit of the jurors,  
17          I informed counsel that I really didn't want to go  
18          beyond 4:30 today. I'm aware of the fact that you  
19          have not only been sitting in the jury box most of  
20          the day, but also the fact that there's travel to  
21          and from Manitowoc each day. So unless it is really  
22          important, I'm going to do my best to get you out of  
23          here at 4:30 all the time. But I have been told  
24          that there is a witness who isn't going to take very  
25          long. So, Mr. Kratz, you may call your witness.

1 ATTORNEY KRATZ: Thank you, Judge. We call  
2 David Beach to the stand.

3 THE CLERK: Please raise your right hand.

4 DAVID BEACH, called as a witness herein,  
5 having been first duly sworn, was examined and  
6 testified as follows:

7 THE CLERK: Please be seated. Please state  
8 your name and spell your last name for the record.

9 THE WITNESS: My name is David Beach. My  
10 last name is spelled B-e-a-c-h.

11 THE COURT: Mr. Beach, I'm going to ask you  
12 to get a little closer to the microphone.

13 DIRECT EXAMINATION

14 BY ATTORNEY KRATZ:

15 Q. Mr. Beach, do you know a woman by the name of  
16 Teresa Halbach?

17 A. Yes, I did.

18 Q. How did you know her?

19 A. She was my cousin.

20 Q. Sometime on Friday, the 4th of November, did you  
21 volunteer to assist in a search for Teresa?

22 A. Yes.

23 Q. And in that regard, were you with somebody else,  
24 or paired up with somebody in that search?

25 A. I was paired with my older sister, Sarah Beach.



1 Q. On Friday, the 4th of November, did you make any  
2 stops, or what was your -- or what did your  
3 search efforts entail?

4 A. I met up with my sister and our search effort was  
5 to look for her vehicle. So we got some  
6 information from the Halbachs about what her  
7 schedule was, where she had -- the area that she  
8 was going to and we just tried to track down the  
9 Toyota.

10 Q. All right. In that effort, Mr. Beach, did you  
11 find your way to the Avery Salvage Yard property?

12 A. Yes.

13 Q. And could you tell the jury, please, what  
14 occurred once you got to that property.

15 A. We came to the property. I was the passenger in  
16 the vehicle. I stepped out, I went into the  
17 garage. There was a lone desk. There was a  
18 person sitting at the desk talking on the phone.

19 Another person came to the desk to greet  
20 me and then at that time point I asked the person  
21 if -- if they ever had any photographers come to  
22 the salvage yard to take pictures of vehicles.  
23 And he said he didn't know. And then I came back  
24 and I mentioned that my cousin was missing. She  
25 was a photographer. And that was the reason for

1 my visit.

2 Q. All right. Let me ask you, Mr. Beach, do you

3 know the defendant, Steven Avery, the gentleman

4 seated in the courtroom today?

5 A. At the time I did not; today I do.

6 Q. When you got to the salvage yard on the 5th of --

7 excuse me -- on the 4th of November, that Friday;

8 was Steven Avery one of the people that you

9 talked to at the office or in what you call the

10 garage?

11 A. Yes, he was the second person.

12 Q. Did you specifically ask Mr. Avery whether or not

13 your cousin, Teresa, had been to the salvage

14 yard?

15 A. Yes.

16 Q. What did Mr. Avery tell you?

17 A. He said that she was there; roughly about 2:00 in

18 the afternoon.

19 Q. All right. Just, back up just a second.

20 Mr. Avery himself told you that Teresa was there

21 that day or the day that she had come to take

22 pictures?

23 A. Yes.

24 Q. At 2:00 in the afternoon, right?

25 A. Yes.

1 Q. This would have been three days after her  
2 appearance there; is that right?

3 A. Yes, this was a Friday.

4 Q. Okay. Mr. Avery give you any more details about  
5 what Teresa had done while at the property?

6 A. He told me that she was there, there was a  
7 vehicle behind the office garage and she was  
8 taken to the vehicle to be photographed. That  
9 was about -- That was her purpose for being  
10 there.

11 Q. Let me ask you, Mr. Beach, upon your stopping at  
12 this *Auto Trader* or -- excuse me -- at the Avery  
13 salvage lot, did you provide any information or  
14 any literature to the -- either Mr. Avery himself  
15 or to the Avery salvage business?

16 A. No, I did not.

17 Q. How long was it that you discussed your cousin  
18 with Mr. Avery?

19 A. Five minutes.

20 Q. Finally, Mr. Beach, did Mr. Avery know who you  
21 were talking about; in other words, did he  
22 indicate whether or not this woman had been there  
23 before?

24 A. Yes, I described her build, her -- what she  
25 looked like, what she drove. And he confirmed



1 all that. And he confirmed that she was there to  
2 take photographs.

3 Q. Had she been there before?

4 A. Had she been there before?

5 Q. Did he tell you?

6 A. Yes.

7 Q. What did he say, if you can remember?

8 A. In my line of questioning about my cousin, she  
9 was missing, he said that, yes, Teresa Halbach  
10 came there on a regular basis.

11 Q. So that the jury is clear, Mr. Beach, after that  
12 five minute -- that brief contact with Mr. Avery;  
13 did you return to the Avery salvage property or  
14 did you have any other conversation with  
15 Mr. Avery?

16 A. No.

17 ATTORNEY KRATZ: That's all I have of this  
18 witness, then, Judge.

19 THE COURT: Mr. Buting.

20 ATTORNEY BUTING: Thank you, Judge.

21 CROSS-EXAMINATION

22 BY ATTORNEY BUTING:

23 Q. Now, Mr. Beach, do you know what time it was that  
24 you came to see Mr. Avery at the Avery Salvage  
25 Yard?

1 A. About 4:00.

2 Q. On Friday afternoon?

3 A. Yes.

4 Q. And by that time, of course, there had been

5 reports about your sister in the media, right --

6 I'm sorry, your cousin, with the media about her

7 being missing and all of that?

8 A. I do not know; I did not hear that.

9 Q. So you didn't see any of the news report about

10 your cousin?

11 A. Correct.

12 Q. Okay. So how was it that you ended up at the

13 Avery salvage lot?

14 A. Friday morning, I received a phone call from my

15 parents. They told me about my cousin, Teresa,

16 was missing. I -- Later that afternoon, I came

17 up, I met up with my sister. We then got

18 information from the Halbachs. After that we

19 just drove around and we started from Mishicot

20 and we worked our way north.

21 Q. Okay. My question, I guess is, did somebody give

22 you information about what her appointments were

23 that day?

24 A. The Halbachs told me the general area she had

25 work in, but they did not give me any idea of

1           where her stops were.

2   Q.    So no one told you that she had an appointment on

3           Monday, the 31st, at the Avery salvage lot --

4           yard?

5   A.    Correct.

6   Q.    You just stumbled on that?

7   A.    Yeah, by incident. It was incidental.

8   Q.    Okay. And when you got there, Steven Avery, the

9           person sitting to my left, who you now know, came

10          up and seemed concerned about what you were

11          asking about, right?

12   A.    Yes.

13   Q.    Seemed calm?

14   A.    Correct.

15   Q.    Did not appear to be holding anything back?

16   A.    No.

17   Q.    Correct?

18   A.    Correct.

19   Q.    In fact, I think you described him as being very

20          forthright, didn't you?

21   A.    Correct.

22   Q.    Expressing genuine concern about, you know, what

23          happened to your cousin?

24                  ATTORNEY KRATZ: Objection, Judge, calls

25          for speculation, how genuine it may be.



1 THE COURT: Well, he can testify as to his  
2 impression.

3 THE WITNESS: He said that he was  
4 concerned.

5 Q. (By Attorney Buting)~ Okay. And you accepted  
6 that?

7 A. Yes.

8 Q. And he told you -- You described his vehicle --  
9 I'm sorry, you described her vehicle, the RAV4?

10 A. Yes.

11 Q. And he said, yes, I do recall, she was driving  
12 that. And she came -- he actually said she came  
13 some time mid-afternoon, didn't he?

14 A. Yes, he said that she was at his garage, salvage  
15 yard, around 2:00.

16 Q. But he actually -- he qualified that by saying  
17 approximately mid-afternoon?

18 A. Correct.

19 Q. Okay. Wasn't exact on the time?

20 A. Correct.

21 Q. And he said that she did take photo of the  
22 vehicle, right?

23 A. Correct.

24 Q. And that he did not know her next stop, right?

25 A. Yes.

1 Q. And he told you that when the RAV4 pulled out of  
2 the driveway, that it went to the left from the  
3 Avery property?

4 A. Correct.

5 ATTORNEY BUTING: All right. I have no  
6 further questions.

7 THE WITNESS: Thank you.

8 THE COURT: Anything else? Very well, you  
9 are excused.

10 Members of the jury, that's going to  
11 conclude the court proceedings for today. I will  
12 remind you again not to discuss this case with  
13 anyone, before we resume tomorrow. And we'll see  
14 you tomorrow morning.

15 (Jury not present.)

16 THE COURT: Counsel, I would just ask that  
17 tomorrow morning the attorneys meet in chambers at  
18 8:20 before the day begins, just to let me know  
19 what's coming.

20 ATTORNEY BUTING: What time did you say the  
21 jury is coming, 8:45?

22 THE COURT: Okay. Meet at 8:30. We'll  
23 find out from experience what time they normally get  
24 here. I believe you are right, meet at 8:30.

25 ATTORNEY FALLON: Excuse me, Judge, did you

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want to take up that other matter today or tomorrow morning?

THE COURT: I have a number of other matters listed, I'm not sure which one you want, but we'll discuss that tomorrow morning.

ATTORNEY FALLON: All right.

(Proceedings concluded.)



1 STATE OF WISCONSIN )  
2 ) ss  
3 COUNTY OF MANITOWOC )  
4

5 I, Diane Tesheneck, Official Court  
6 Reporter for Circuit Court Branch 1 and the State  
7 of Wisconsin, do hereby certify that I reported  
8 the foregoing matter and that the foregoing  
9 transcript has been carefully prepared by me with  
10 my computerized stenographic notes as taken by me  
11 in machine shorthand, and by computer-assisted  
12 transcription thereafter transcribed, and that it  
13 is a true and correct transcript of the  
14 proceedings had in said matter to the best of my  
15 knowledge and ability.

16 Dated this 5th day of October, 2007.

17  
18   
19 Diane Tesheneck, RPR  
20 Official Court Reporter  
21  
22  
23  
24  
25